

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:20-cv-00518-FDW-DCS

MARJORIE ACEVEDO,

Plaintiff,

-vs-

TEUPEN NORTH AMERICA, INC.,

Defendant.

VIDEOCONFERENCE DEPOSITION

OF

MARTIN BORUTTA

October 15, 2021

Charlotte, North Carolina

BORUTTA

<p>Sheet 2 Page 2 MARTIN BORUTTA 2</p> <p style="text-align: center;">A P P E A R I N G</p> <p>FOR PLAINTIFF</p> <p>Ms. Michelle Gessner Ms. Nicole Haynes GESSNER LAW, PLLC P.O. Box 78161 Charlotte, NC 28271</p> <p>FOR DEFENDANT</p> <p>Mr. David Klass FISHER & PHILLIPS, LLP 227 West Trade Street Suite 2020 Charlotte, NC 28202</p> <p>ALSO PRESENT</p> <p>Ms. Marjorie Acevedo - Remotely</p> <p>INDEX</p> <p>EXAMINATION BY MS. GESSNER 5</p> <p style="text-align: right;">www.thompsonmi 1 1 s.com</p>	<p>Page 4 MARTIN BORUTTA 4</p> <p>Pl. 20 Response to Plaintiff's Second Set of Interrogatories 263</p> <p>Pl. 21 AT&T Bill and Credit Card Statements 270</p> <p>Pl. 22 Acevedo Credit Card Statement 271</p> <p>Pl. 23 Signed Verification Page 274</p> <p>Pl. 24 Interrogatory Verification Page 277</p> <p>Pl. 25 Teupen NC Secretary of State Document 276</p> <p>(Quoted verbiage is transcribed verbatim and may reflect an imprecise reading thereof.)</p> <p>NOTES</p> <p>[1] Marked for reference at the request of counsel for plaintiff 24</p> <p style="text-align: right;">www.thompsonmi 1 1 s.com</p>
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<p>Sheet 3 Page 6</p> <p style="text-align: center;">MARTIN BORUTTA</p> <p>1 Q. And is your lawyer today for this deposition</p> <p>2 Mr. Klass, whose video is off?</p> <p>3 A. Yes, ma'am.</p> <p>4 Q. Mr. Borutta, can you understand English?</p> <p>5 A. I think so. I am not native, but I should</p> <p>6 understand English.</p> <p>7 Q. At any point today you do not understand anything</p> <p>8 I'm saying, will you please let me know?</p> <p>9 A. I will, yes.</p> <p>10 Q. Have you ever been deposed before?</p> <p>11 A. No.</p> <p>12 Q. Have you ever provided sworn testimony before?</p> <p>13 A. Maybe in German lawsuits for companies, maybe. I</p> <p>14 don't remember.</p> <p>15 Q. Have you provided sworn testimony in the United</p> <p>16 States before?</p> <p>17 A. No.</p> <p>18 Q. Have you ever signed a declaration or an affidavit</p> <p>19 under oath?</p> <p>20 A. No.</p> <p>21 Q. You sat through Ms. Acevedo's deposition yesterday,</p> <p>22 correct?</p> <p>23 A. Yes. That's correct.</p> <p>24 Q. Were you there the entire day?</p> <p>25 A. No.</p> <p style="text-align: right;">www.thompsonmi</p> <p style="text-align: right;">1</p> <p style="text-align: right;">1</p> <p style="text-align: right;">s.com</p>	<p>Page 8</p> <p style="text-align: center;">MARTIN BORUTTA</p> <p>1 United States?</p> <p>2 A. Since November '19.</p> <p>3 Q. Is that November of 2019?</p> <p>4 A. Yes.</p> <p>5 Q. Prior to holding an investor's visa in the United</p> <p>6 States you were spending time and operating Teupen</p> <p>7 in the U.S., correct?</p> <p>8 A. No.</p> <p>9 Q. So is it your testimony you were not at all in the</p> <p>10 United States before another November of 2019?</p> <p>11 A. I did not operate Teupen. I spent time in the U.S.</p> <p>12 Q. And how is it that you were able to enter the</p> <p>13 United States prior to receiving your investor's</p> <p>14 visa?</p> <p>15 A. With an Esta.</p> <p>16 Q. I'm sorry. Please repeat that.</p> <p>17 A. ESTA, E-S-T-A. That's for German citizens or other</p> <p>18 European nationals.</p> <p>19 Q. And how often were you in the United States in</p> <p>20 2019?</p> <p>21 A. From July to December, seven times, and before, I</p> <p>22 think two times. I'm not sure, but probably close</p> <p>23 to 10 times.</p> <p>24 Q. Do you own a home in the United States?</p> <p>25 A. Sorry. I didn't understand that.</p> <p style="text-align: right;">www.thompsonmi</p> <p style="text-align: right;">1</p> <p style="text-align: right;">1</p> <p style="text-align: right;">s.com</p>
<p>Page 7</p> <p style="text-align: center;">MARTIN BORUTTA</p> <p>1 Q. When did you leave?</p> <p>2 A. At 3:50 p.m.</p> <p>3 Q. You're aware that the videos were off, so Mr. Klass</p> <p>4 did not show his face to Ms. Acevedo, nor was your</p> <p>5 video on during the day, is that correct?</p> <p>6 A. Yes.</p> <p>7 Q. Why did you leave at 3:50 yesterday?</p> <p>8 A. I had a private appointment.</p> <p>9 Q. Mr. Borutta, what's your date of birth?</p> <p>10 A. 11/02/67.</p> <p>11 Q. Are you a U.S. citizen?</p> <p>12 A. No.</p> <p>13 Q. Do you pay taxes in the United States?</p> <p>14 A. Yes.</p> <p>15 Q. As an ex-pat, or under what circumstances do you</p> <p>16 pay taxes?</p> <p>17 A. Investor's visa.</p> <p>18 Q. I'm sorry?</p> <p>19 A. I have an investor's visa.</p> <p>20 Q. Did anyone assist you in obtaining the investor's</p> <p>21 visa?</p> <p>22 A. Yes.</p> <p>23 Q. Who?</p> <p>24 A. I think it was AGG in Atlanta.</p> <p>25 Q. How long have you held an investor's visa in the</p> <p style="text-align: right;">www.thompsonmi</p> <p style="text-align: right;">1</p> <p style="text-align: right;">1</p> <p style="text-align: right;">s.com</p>	<p>Page 9</p> <p style="text-align: center;">MARTIN BORUTTA</p> <p>1 Q. Do you own a home in the United States?</p> <p>2 A. No.</p> <p>3 Q. Where do you reside?</p> <p>4 A. In Charlotte in a house, in a rented house.</p> <p>5 Q. What is the address of that house?</p> <p>6 A. 18345 Calabash Road, Charlotte, North Carolina</p> <p>7 28278.</p> <p>8 Q. And I think I heard you say that is a rental, is</p> <p>9 that correct?</p> <p>10 A. Yeah. That's correct.</p> <p>11 Q. Is the lease in your name?</p> <p>12 A. Yes.</p> <p>13 Q. Does anyone reside at that address with you?</p> <p>14 A. No.</p> <p>15 Q. Are you married?</p> <p>16 A. Divorced.</p> <p>17 Q. When were you divorced?</p> <p>18 A. I don't remember. I am two times divorced. I</p> <p>19 think it was in '18, '17. I don't know.</p> <p>20 Q. Have you been divorced more than two years?</p> <p>21 A. Yeah. I think it was in '18. I don't know.</p> <p>22 Q. Where does your second ex-wife live?</p> <p>23 A. In Germany.</p> <p>24 Q. Has she ever lived --</p> <p>25 MS. GESSNER: Strike that.</p> <p style="text-align: right;">www.thompsonmi</p> <p style="text-align: right;">1</p> <p style="text-align: right;">1</p> <p style="text-align: right;">s.com</p>

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<p>Sheet 4 Page 10</p> <p style="text-align: right;">MARTIN BORUTTA 10</p> <p>1 Q. (By Ms. Gessner) Were you married to a woman?</p> <p>2 A. Yes.</p> <p>3 Q. Has she ever lived with you in the United States?</p> <p>4 A. She's been traveling with me in the United States, not living.</p> <p>5 Q. And your first ex-wife, where does she live?</p> <p>6 A. In Germany.</p> <p>7 Q. What is her name?</p> <p>8 A. Christiane.</p> <p>9 Q. Please spell that for the record.</p> <p>10 A. Christiane, C-h-r-i-s-t-i-a-n-e.</p> <p>11 Q. And is her last name Borutta?</p> <p>12 A. Yep.</p> <p>13 Q. It's still -- is it Borutta to this day?</p> <p>14 A. I don't know. I did not see her a long time.</p> <p>15 Q. What is your second ex-wife's name?</p> <p>16 A. That's more difficult. That's Naowarat, N-a-o-w-a-r-a-t.</p> <p>17 Q. Thank you. And is her last name also Borutta?</p> <p>18 A. Yes.</p> <p>19 Q. Do you have any children, Mr. Borutta?</p> <p>20 A. I have a son.</p> <p>21 Q. How old is he?</p> <p>22 A. 22.</p> <p>23 Q. Where does he live?</p> <p style="text-align: right;">www.thompsonmi 1 1 s.com</p>	<p>Page 12</p> <p style="text-align: right;">MARTIN BORUTTA 12</p> <p>1 me finish my question before you answer and I'll</p> <p>2 give you the same courtesy and let you answer</p> <p>3 before I start my next question. Is that fair?</p> <p>4 A. Sounds fair.</p> <p>5 Q. If at any time you need a break today I ask you</p> <p>6 just let me know. We'll probably take a break once</p> <p>7 an hour, and I just ask that you answer any</p> <p>8 question that I have on the table before you ask to</p> <p>9 take that break. Is that also fair?</p> <p>10 A. Yes.</p> <p>11 Q. Are you under the influence of any medication or</p> <p>12 drugs that would influence your ability to</p> <p>13 understand my questions?</p> <p>14 A. No.</p> <p>15 Q. And did you get enough sleep last night?</p> <p>16 A. Yes.</p> <p>17 Q. I think earlier I said if you don't understand</p> <p>18 anything that I'm asking of you, you're going to</p> <p>19 let me know, is that correct?</p> <p>20 A. I answered the question yes.</p> <p>21 Q. And if you answer the question I am going to</p> <p>22 operate under the understanding that you understand</p> <p>23 it. Is that fair?</p> <p>24 A. If I don't understand I will ask a second time.</p> <p>25 Yes, it's fair.</p> <p style="text-align: right;">www.thompsonmi 1 1 s.com</p>
<p>Page 11</p> <p style="text-align: right;">MARTIN BORUTTA 11</p> <p>1 A. Germany.</p> <p>2 Q. Has he ever lived in the United States with you?</p> <p>3 A. No.</p> <p>4 Q. What is his name?</p> <p>5 A. Yannick.</p> <p>6 Q. Please spell that for the record.</p> <p>7 A. Y-a-n-n-i-c-k.</p> <p>8 Q. Last name Borutta?</p> <p>9 A. Yep.</p> <p>10 Q. So, Mr. Borutta, can you hear me okay right now?</p> <p>11 A. Yes, I can.</p> <p>12 Q. So a couple rules of the road today, I think you</p> <p>13 should be familiar given that you sat through</p> <p>14 Ms. Acevedo's deposition from 9:00 a.m. until after</p> <p>15 3:00 yesterday, correct?</p> <p>16 A. Yes. That's correct.</p> <p>17 Q. The court reporter is going to take down everything</p> <p>18 I say and everything you say today, so it is very</p> <p>19 important that we have a verbal response, so she</p> <p>20 can't take down head nods, yes or no. Will you</p> <p>21 agree to give me verbal responses to all my</p> <p>22 questions?</p> <p>23 A. I am.</p> <p>24 Q. Also, she can't take down your testimony if we're</p> <p>25 talking over one another, so I'd ask that you let</p> <p style="text-align: right;">www.thompsonmi 1 1 s.com</p>	<p>Page 13</p> <p style="text-align: right;">MARTIN BORUTTA 13</p> <p>1 Q. What did you do to prepare for this deposition?</p> <p>2 A. Meet with David Klass.</p> <p>3 Q. Anyone else present for that meeting?</p> <p>4 A. No.</p> <p>5 Q. Did you meet with Mr. Klass more than one time to</p> <p>6 prepare for the deposition?</p> <p>7 A. No.</p> <p>8 Q. When did you meet with Mr. Klass?</p> <p>9 A. Wednesday.</p> <p>10 Q. Is that last Wednesday or this past Wednesday which</p> <p>11 would be October 13?</p> <p>12 A. 13th.</p> <p>13 Q. How long did the meeting last?</p> <p>14 A. I don't remember.</p> <p>15 Q. Was it all day?</p> <p>16 A. No.</p> <p>17 Q. Where did the meeting take place?</p> <p>18 A. In the Fisher Phillips office.</p> <p>19 Q. Did the meeting last more than four hours?</p> <p>20 A. I don't remember.</p> <p>21 Q. You are paying Fisher Phillips by the hour for</p> <p>22 representation in this case, aren't you?</p> <p>23 A. I think so. Yes.</p> <p>24 Q. Or is Teupen paying or are you paying personally?</p> <p>25 A. Teupen.</p> <p style="text-align: right;">www.thompsonmi 1 1 s.com</p>

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<p>Sheet 5 Page 14</p> <p style="text-align: right;">MARTIN BORUTTA 14</p> <p>1 Q. You say you think so. Who would know whether or</p> <p>2 not you're paying Fisher Phillips by the hour other</p> <p>3 than you?</p> <p>4 MR. KLASS: Object to the form.</p> <p>5 Q. (By Ms. Gessner) You can answer.</p> <p>6 A. It's just me.</p> <p>7 Q. So do you know whether or not you're paying Fisher</p> <p>8 Phillips by the hour?</p> <p>9 A. Yes, I know.</p> <p>10 Q. And you have more than one lawyer representing</p> <p>11 Teupen on this case, correct?</p> <p>12 A. At the beginning I think it was a second lawyer,</p> <p>13 yes, at the beginning.</p> <p>14 Q. Do you know Ben Morrell?</p> <p>15 A. No.</p> <p>16 Q. Do you know how much you have spent on legal fees</p> <p>17 in this matter to date?</p> <p>18 MR. KLASS: I'm going to object to</p> <p>19 this line of questioning at this point.</p> <p>20 This has nothing to do with the case, and</p> <p>21 what his attorney's fees are I believe</p> <p>22 would fall under any number of privilege</p> <p>23 or protection and I'm directing him not</p> <p>24 to answer.</p> <p>25 MS. GESSNER: It absolutely does not</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>	<p>Page 16</p> <p style="text-align: right;">MARTIN BORUTTA 16</p> <p>1 Q. (By Ms. Gessner) Do you understand my question,</p> <p>2 Mr. Borutta?</p> <p>3 A. Yes, I understand the question.</p> <p>4 Q. Please answer it.</p> <p>5 A. I don't know.</p> <p>6 Q. Who would know if you don't?</p> <p>7 MR. KLASS: Object to the form.</p> <p>8 Q. (By Ms. Gessner) Mr. Borutta, did you understand my</p> <p>9 question?</p> <p>10 A. Yep.</p> <p>11 Q. Please answer it.</p> <p>12 A. I would be the person to know if I would want to</p> <p>13 know what I spent till today, but I don't know</p> <p>14 because I didn't check it.</p> <p>15 Q. When was the last time you paid an invoice from</p> <p>16 Fisher Phillips?</p> <p>17 MR. KLASS: Object to the form.</p> <p>18 Q. (By Ms. Gessner) Did you understand my question,</p> <p>19 Mr. Borutta?</p> <p>20 A. Yes, I understood.</p> <p>21 Q. Please answer it.</p> <p>22 A. Last month.</p> <p>23 Q. And do you recall anything about the amount of that</p> <p>24 invoice?</p> <p>25 A. No.</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>
<p>Page 15</p> <p style="text-align: right;">MARTIN BORUTTA 15</p> <p>1 fall under protection. Please have</p> <p>2 someone do the research.</p> <p>3 Q. (By Ms. Gessner) I'm not asking you, Mr. Borutta,</p> <p>4 anything that you told your lawyers or that they</p> <p>5 told you, but how much you've spent on legal fees</p> <p>6 is 100 percent a valid question that in no way</p> <p>7 breaches privilege, so I'd like you to answer the</p> <p>8 question.</p> <p>9 MR. KLASS: Also object to the form.</p> <p>10 Q. (By Ms. Gessner) Do you understand my question,</p> <p>11 Mr. Borutta?</p> <p>12 A. Yeah, I understand the question, and the answer is</p> <p>13 I don't know.</p> <p>14 Q. Do you have any idea?</p> <p>15 MR. KLASS: Object to the form.</p> <p>16 He's answered your question.</p> <p>17 Q. (By Ms. Gessner) You can answer -- answer it again.</p> <p>18 I asked you a different question.</p> <p>19 A. I don't --</p> <p>20 Q. Do you have any idea how much you have spent on</p> <p>21 legal fees in this case matter to date?</p> <p>22 A. No.</p> <p>23 Q. Has it been more than \$20,000?</p> <p>24 MR. KLASS: Object to the form.</p> <p>25 Asked and answered.</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>	<p>Page 17</p> <p style="text-align: right;">MARTIN BORUTTA 17</p> <p>1 Q. Is there any document that would help refresh your</p> <p>2 recollection as to exactly how much you've spent in</p> <p>3 legal fees in this case?</p> <p>4 A. If you could show me a document.</p> <p>5 Q. No, I'm asking you. Are aware of any documents</p> <p>6 that would provide you with the information you say</p> <p>7 you can't remember?</p> <p>8 A. For sure our accounting can show it.</p> <p>9 Q. And who is accounting at Teupen?</p> <p>10 A. An external company.</p> <p>11 Q. Who is that external company?</p> <p>12 A. CPH.</p> <p>13 Q. What does CPH stand for?</p> <p>14 A. Catrakilis and two other names. I don't know.</p> <p>15 Q. Spell the first name that you can remember.</p> <p>16 A. Catrakilis.</p> <p>17 Q. Can you spell it?</p> <p>18 A. C-a-t-r-a-k-i-l-i-s.</p> <p>19 Q. Is this a United States company or German?</p> <p>20 A. It's a United States company.</p> <p>21 Q. Are you aware that the court ordered Teupen to</p> <p>22 provide certain documents to plaintiffs in this</p> <p>23 case?</p> <p>24 A. Yes.</p> <p>25 Q. And are you aware that the court ordered Teupen to</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>

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<p>Sheet 6 Page 18</p> <p style="text-align: right;">MARTIN BORUTTA 18</p> <p>1 provide certain answers to interrogatories in this</p> <p>2 case?</p> <p>3 A. Yes.</p> <p>4 Q. Are you aware that Teupen is in contempt of that</p> <p>5 order?</p> <p>6 MR. KLASS: Object to the form.</p> <p>7 Q. (By Ms. Gessner) Do you understand my question,</p> <p>8 Mr. Borutta?</p> <p>9 A. I understand the question, and the answer is no.</p> <p>10 Q. No, you're not aware that Teupen is in contempt?</p> <p>11 MR. KLASS: Object to the form.</p> <p>12 Q. (By Ms. Gessner) It seems, Mr. Borutta, that</p> <p>13 Mr. Klass is going to be obstructive today and</p> <p>14 continue to object to every question that I ask,</p> <p>15 but each time he objects you still must answer that</p> <p>16 question. So each time we have to pause and I have</p> <p>17 to say do you understand that question and say</p> <p>18 please answer it, it's going to get really long</p> <p>19 really fast. So any time he objects do you</p> <p>20 understand that you have an obligation to still</p> <p>21 answer that question unless he instructs you not</p> <p>22 to?</p> <p>23 A. I know, and the answer is no.</p> <p>24 Q. So again, no, you're not aware that Teupen is in</p> <p>25 contempt of a court order sitting here today, is</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>	<p>Page 20</p> <p style="text-align: right;">MARTIN BORUTTA 20</p> <p>1 A. Yes, I understood your question.</p> <p>2 Q. (By Ms. Gessner) Please answer it.</p> <p>3 A. She said I think sometimes that I did not have time</p> <p>4 to talk to her. That is incorrect and that is not</p> <p>5 the truth. And she did not discuss things with me</p> <p>6 she explained yesterday, but there were several</p> <p>7 things I cannot recall.</p> <p>8 Q. Well, the deposition was just yesterday, right?</p> <p>9 A. Yes.</p> <p>10 Q. And your lawyers paid or Teupen paid to have it</p> <p>11 videotaped, correct?</p> <p>12 MR. KLASS: Object to the form.</p> <p>13 Q. (By Ms. Gessner) Is that correct?</p> <p>14 MR. KLASS: Object to the form.</p> <p>15 A. Yes.</p> <p>16 Q. (By Ms. Gessner) And you sitting here today, those</p> <p>17 are the only two things that you can recall that</p> <p>18 she said that you don't believe was truthful?</p> <p>19 MR. KLASS: Object to the form.</p> <p>20 Mischaracterizes his testimony.</p> <p>21 Q. (By Ms. Gessner) I'm just going to ignore Mr. Klass</p> <p>22 because his objections really have no meaning</p> <p>23 whether you have to answer or not, so please answer</p> <p>24 the question.</p> <p>25 A. I did not see the video.</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>
<p>Page 19</p> <p style="text-align: right;">MARTIN BORUTTA 19</p> <p>1 that correct?</p> <p>2 MR. KLASS: Object to the form.</p> <p>3 A. That was a different question than the one before.</p> <p>4 Can you ask it again, please?</p> <p>5 Q. (By Ms. Gessner) Are you aware sitting here today</p> <p>6 that Teupen is in contempt of a court order?</p> <p>7 MR. KLASS: Object to the form.</p> <p>8 A. No, I'm not aware.</p> <p>9 Q. (By Ms. Gessner) Do you know what the word contempt</p> <p>10 means?</p> <p>11 A. I would explain it as not fulfilling or not</p> <p>12 fulfilling a demand, correct?</p> <p>13 Q. You sat through Ms. Acevedo's deposition until</p> <p>14 3 o'clock yesterday, correct?</p> <p>15 A. Yes.</p> <p>16 Q. Was there anything that Ms. Acevedo said yesterday</p> <p>17 that you do not believe was truthful?</p> <p>18 A. Yes.</p> <p>19 Q. Tell me everything that you believe Ms. Acevedo</p> <p>20 said yesterday that you believe was not truthful.</p> <p>21 MR. KLASS: Object to the form.</p> <p>22 Q. (By Ms. Gessner) You understood my question, didn't</p> <p>23 you, Mr. Borutta?</p> <p>24 A. Yes.</p> <p>25 MR. KLASS: Object to the form.</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>	<p>Page 21</p> <p style="text-align: right;">MARTIN BORUTTA 21</p> <p>1 Q. Do you recall anything else sitting here today less</p> <p>2 than 24 hours later that you believe Ms. Acevedo</p> <p>3 said that wasn't true?</p> <p>4 A. I will try to recall. That's -- I told you what I</p> <p>5 can recall, actually, and answered your question.</p> <p>6 Q. What is your understanding as to what this lawsuit</p> <p>7 is about?</p> <p>8 A. My understanding, I told you in January 2020, it is</p> <p>9 a frivolous lawsuit based on wrong accusations.</p> <p>10 That is what this lawsuit is about, and I told you</p> <p>11 that in different times pre now.</p> <p>12 Q. I'm going to show you a document. Mr. Borutta, do</p> <p>13 you see a document on the screen?</p> <p>14 A. I see a document on the screen.</p> <p>15 Q. Do you have any issues viewing it on the computer?</p> <p>16 A. No.</p> <p>17 Q. It's a two-page document that we've marked as</p> <p>18 Exhibit 1 to your deposition. There's page 1 and</p> <p>19 there's page 2. Do you see that?</p> <p>20 A. I see that it has two pages.</p> <p>21 Q. Have you ever seen this document before that is an</p> <p>22 order from the court ordering Teupen to respond to</p> <p>23 plaintiff's discovery requests?</p> <p>24 MR. KLASS: Objection. This calls</p> <p>25 for disclosure of attorney-client</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>

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<p>Sheet 7 Page 22</p> <p style="text-align: right;">MARTIN BORUTTA 22</p> <p>1 privilege and attorney work product and 2 I'm directing the witness not to answer. 3 MS. GESSNER: Again I disagree. 4 This is a public document that has been 5 ordered by the court. My question is has 6 he ever seen it before. I didn't ask 7 whether his lawyer gave it to him or 8 whether you had any conversations with 9 him about it. I simply asked if he had 10 seen it before. Counsel, your objection 11 is improper. So again -- 12 MR. KLASS: I maintain -- I'm sorry. 13 MS. GESSNER: Wait -- 14 Q. (By Ms. Gessner) Mr. Borutta, are you going to 15 refuse to answer whether or not you saw this public 16 document that is an order of the court before at 17 the advice of your counsel? 18 MR. KLASS: I'm going to renew my 19 objection that it calls for disclosure of 20 attorney-client privileged communications 21 and attorney work product. Mr. Borutta 22 is directed not to answer to the extent 23 that he has seen this order through his 24 communications with counsel. To the 25 extent that he has seen the order outside www.thompsonmi 1 1 s.com</p>	<p>Page 24</p> <p style="text-align: right;">MARTIN BORUTTA 24</p> <p>1 MS. GESSNER: We understand what 2 you're advising. I'm asking him if he's 3 going to follow your advice, counsel. 4 Q. (By Ms. Gessner) Mr. Borutta, are you going to 5 follow your lawyer's advice and not answer my very 6 basic question about whether you've seen this 7 document before? 8 A. I will follow Mr. Klass' advice. That's why he's 9 my lawyer. 10 MS. GESSNER: Michelle, please mark 11 this and any going forward. [1] 12 Q. (By Ms. Gessner) Okay. Well, now we're seated 13 today, Mr. Borutta, together, so if you need time 14 to review this two-page document, please let me 15 know. Do you? 16 A. Sure, in time to review it. 17 Q. Okay. 18 A. I cannot read it fully because -- can you -- 19 Q. Just a second, Mr. Borutta. I have just given you 20 control to be able to scroll the document. It is 21 9:32 a.m. and I've given you control to scroll a 22 two-page document and read it to prepare to answer 23 any questions I may have. 24 A. What does compel mean again? 25 Q. Do you have any understanding what the word compel www.thompsonmi 1 1 s.com</p>
<p>Page 23</p> <p style="text-align: right;">MARTIN BORUTTA 23</p> <p>1 of communications with counsel he may 2 answer. 3 MS. GESSNER: Counsel, your 4 objection is wholly improper. Any 5 documents he saw in preparation for this 6 deposition including this order are fair 7 game. Any public documents that he saw 8 in preparation for this deposition are 9 fair game. Any public documents that he 10 saw at all in this case are fair game. 11 So again, Michelle -- Ms. Thompson, 12 please mark any time that Mr. Klass makes 13 these improper objections so that we can 14 take it up with the court and bring 15 Mr. Borutta back to answer these very 16 basic questions that Mr. Klass is going 17 to obstruct this deposition just like he 18 did yesterday and instruct his witness 19 not to answer. 20 Q. (By Ms. Gessner) So again, Mr. Borutta, are you 21 going to follow the instruction of your lawyer and 22 refuse to answer whether you've seen this document 23 before or not? 24 MR. KLASS: I am advising my client 25 not to answer that question. www.thompsonmi 1 1 s.com</p>	<p>Page 25</p> <p style="text-align: right;">MARTIN BORUTTA 25</p> <p>1 means? 2 A. No. 3 Q. Have you ever researched what the word means? 4 A. No. 5 Q. Do you have any just even basic understanding what 6 the word compel means? 7 MR. KLASS: Object to the form to 8 the extent it calls for a legal 9 conclusion. 10 A. No. 11 Q. (By Ms. Gessner) Do you have any reason to dispute 12 that the word compel means required you to provide? 13 MR. KLASS: Object to the form to 14 the extent it calls for a legal 15 conclusion. 16 MS. GESSNER: I'm providing him the 17 definition of compel, but okay. He asked 18 me for it, so I don't know how the 19 definition of the word compel is a legal 20 conclusion. It's a word. It's in the 21 dictionary. 22 MR. KLASS: You're attempting to 23 have him -- 24 Q. (By Ms. Gessner) Mr. Borutta, would you like to 25 take a break and research the word compel so that www.thompsonmi 1 1 s.com</p>

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<p>Sheet 8 Page 26</p> <p style="text-align: right;">MARTIN BORUTTA 26</p> <p>1 you better understand the court's order?</p> <p>2 A. Yeah. That's a good idea.</p> <p>3 Q. Okay. We'll take five minutes.</p> <p>4 (RECESS)</p> <p>5 Q. (By Ms. Gessner) We're back on the record after a</p> <p>6 short break. Mr. Borutta, did you speak with</p> <p>7 Mr. Klass during the break?</p> <p>8 A. Yes.</p> <p>9 Q. What did he tell you?</p> <p>10 A. That I should research the word.</p> <p>11 Q. Anything else?</p> <p>12 A. No.</p> <p>13 Q. You understand you're under the penalty of perjury</p> <p>14 today, correct?</p> <p>15 A. I understand, yes.</p> <p>16 Q. You know what the word perjury means?</p> <p>17 A. The -- I -- I don't know how to explain. Yeah, I</p> <p>18 understand what it means.</p> <p>19 Q. Is that all that Mr. Klass said to you during the</p> <p>20 break?</p> <p>21 MR. KLASS: Object to the form.</p> <p>22 Q. (By Ms. Gessner) Did you understand my question?</p> <p>23 A. Yes, and the answer is yes.</p> <p>24 Q. He just simply told you that you needed to research</p> <p>25 the word compel and nothing else, is that correct?</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>	<p>Page 28</p> <p style="text-align: right;">MARTIN BORUTTA 28</p> <p>1 MR. KLASS: Object to the form.</p> <p>2 A. I had enough time to review it, but it doesn't make</p> <p>3 sense. If you show me other documents,</p> <p>4 Ms. Gessner, because I didn't review them in the</p> <p>5 past because therefore I'm paying lawyers. You</p> <p>6 asked me before whether I pay my lawyers. Yes, I</p> <p>7 pay my lawyers and they take care and they tell me</p> <p>8 what to do. I'm not English, I'm not a lawyer, and</p> <p>9 I need a lawyer for that. That's what we did in</p> <p>10 that case.</p> <p>11 Q. (By Ms. Gessner) I'm going to share another</p> <p>12 document with you, Mr. Borutta, that's been marked</p> <p>13 as Exhibit 2 to your deposition. Do you see a</p> <p>14 document on the screen?</p> <p>15 A. I see a document.</p> <p>16 Q. It's a five-page document. You're on page 1 right</p> <p>17 now. Page 5, this is the bottom. It's a letter</p> <p>18 received from your lawyer, David Klass. Look at</p> <p>19 what time it was received today. Do you see in the</p> <p>20 email that it was received at 8:53 a.m. today?</p> <p>21 MR. KLASS: Object to the form.</p> <p>22 A. No, I don't see that.</p> <p>23 Q. (By Ms. Gessner) Well, do you see at the very top</p> <p>24 of page 1 on the right-hand corner -- can you see</p> <p>25 that on the screen?</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>
<p>Page 27</p> <p style="text-align: right;">MARTIN BORUTTA 27</p> <p>1 MR. KLASS: Object to the form.</p> <p>2 A. He confirmed to look it up. Yes.</p> <p>3 Q. (By Ms. Gessner) Please say that again. I didn't</p> <p>4 hear you.</p> <p>5 A. Mr. Klass confirmed, yes, go ahead and look it up.</p> <p>6 Q. Do you have an understanding what the word compel</p> <p>7 means now?</p> <p>8 A. Yes, I have.</p> <p>9 Q. What's your understanding of what it means?</p> <p>10 A. That in -- I cannot express it in English, but in</p> <p>11 German words I need -- I understand it's -- or I --</p> <p>12 if I translate it, that is a court order I have to</p> <p>13 follow, like a rules of the court or whatever how</p> <p>14 you want to explain. That would be my</p> <p>15 understanding.</p> <p>16 Q. Do you believe that Teupen has followed the court's</p> <p>17 order?</p> <p>18 MR. KLASS: Object to the form.</p> <p>19 A. I think it's not about what I believe. It's about</p> <p>20 what we did. And I have a lawyer to explain me</p> <p>21 things and to request things from me and that's</p> <p>22 what I do because I'm not a lawyer.</p> <p>23 Q. (By Ms. Gessner) I'm going to show you -- did you</p> <p>24 have enough time to review Exhibit 1, the court's</p> <p>25 order regarding what you are supposed to do?</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>	<p>Page 29</p> <p style="text-align: right;">MARTIN BORUTTA 29</p> <p>1 A. I see the date but no time.</p> <p>2 Q. Do you see Friday, October 15, 2021, at 8:53 a.m.?</p> <p>3 A. I see the date. I don't see the time.</p> <p>4 Q. Why can't you see the time?</p> <p>5 A. Because the Zoom window is over it.</p> <p>6 Q. Do you know how to move the Zoom window so that</p> <p>7 would be outside of the view? You just click on</p> <p>8 the bar and it will move it to the top.</p> <p>9 A. I don't know how to move it, but if you explain it,</p> <p>10 because I never use Zoom.</p> <p>11 Q. Do you see the three or the five black boxes that</p> <p>12 are down the right-hand side? Is that what you see</p> <p>13 right now?</p> <p>14 A. No.</p> <p>15 Q. Well, let me try a different way. Now do you see</p> <p>16 on your screen in very big letters October 15,</p> <p>17 2021, at 8:53 a.m.? Do you see that?</p> <p>18 A. Yes, I see the date and the time.</p> <p>19 Q. And today is October 15, correct?</p> <p>20 A. Yes.</p> <p>21 Q. And your deposition was set to start at 9:00 a.m.</p> <p>22 this morning, correct?</p> <p>23 A. Yes.</p> <p>24 Q. And on Exhibit 1, taking you back there, you see</p> <p>25 that the court ordered Teupen to provide complete</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>

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<p>Sheet 9 Page 30</p> <p style="text-align: right;">MARTIN BORUTTA 30</p> <p>1 responses within 30 days of the date of this order?</p> <p>2 Did you see that, Mr. Borutta?</p> <p>3 A. I see the paper.</p> <p>4 Q. Did you read and see that the date in which that it</p> <p>5 had to be provided was within 30 days from the date</p> <p>6 of this order, which is September 9?</p> <p>7 A. I didn't see that because I was looking for the</p> <p>8 word compel.</p> <p>9 Q. So you were reading this beforehand, but let's make</p> <p>10 sure that you were aware that Teupen had to provide</p> <p>11 complete responses as requested by plaintiff within</p> <p>12 30 days from the court's order. So do you see on</p> <p>13 page 1 of Exhibit 1 of your deposition the words</p> <p>14 plaintiff's motion to compel is granted? Do you</p> <p>15 see that?</p> <p>16 A. I see that.</p> <p>17 Q. And do you see number 3, "within 30 days of this</p> <p>18 order each party shall serve complete supplemental</p> <p>19 response to the opposing party's discovery</p> <p>20 requests"? Do you see that?</p> <p>21 A. Yes.</p> <p>22 Q. And what is 30 days after September 9, Mr. Borutta?</p> <p>23 A. I do not have a calendar. I don't know.</p> <p>24 Q. Do you have any reason to reject that it is at</p> <p>25 least October 9, 2021?</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>	<p>Page 32</p> <p style="text-align: right;">MARTIN BORUTTA 32</p> <p>1 A. No.</p> <p>2 Q. So your lawyer sent this letter without you</p> <p>3 reviewing it, is that correct?</p> <p>4 MR. KLASS: Object to the form.</p> <p>5 A. I don't know.</p> <p>6 MR. KLASS: And I'm going to also</p> <p>7 direct the witness not to answer as it</p> <p>8 would reveal attorney-client</p> <p>9 communications.</p> <p>10 MS. GESSNER: Again, your objection</p> <p>11 is noted.</p> <p>12 Q. (By Ms. Gessner) So you're going to refuse to</p> <p>13 testify whether you saw a document that's being</p> <p>14 marked as your exhibit before today? Is that</p> <p>15 accurate, Mr. Borutta?</p> <p>16 MR. KLASS: He already testified.</p> <p>17 MS. GESSNER: No, he didn't,</p> <p>18 counsel.</p> <p>19 A. I already said --</p> <p>20 MS. GESSNER: I counted time I even</p> <p>21 spoke yesterday, counsel. You have</p> <p>22 exceeded my number of objections already</p> <p>23 in the first hour, so I have --</p> <p>24 MR. KLASS: You have made a number</p> <p>25 of objectionable questions.</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>
<p>Page 31</p> <p style="text-align: right;">MARTIN BORUTTA 31</p> <p>1 MR. KLASS: Object to the form.</p> <p>2 A. I don't know.</p> <p>3 Q. (By Ms. Gessner) Mr. Borutta, do you need to look</p> <p>4 at a calendar to count the days?</p> <p>5 A. No.</p> <p>6 Q. Do you believe that 30 days after September 9 is at</p> <p>7 least October 9, 2021?</p> <p>8 MR. KLASS: Object to the form.</p> <p>9 A. Yes.</p> <p>10 Q. (By Ms. Gessner) Are you aware that Teupen has not</p> <p>11 provided complete responses to plaintiff in</p> <p>12 response to the court's order of September 9?</p> <p>13 MR. KLASS: Object to the form.</p> <p>14 A. No, I am not aware.</p> <p>15 Q. (By Ms. Gessner) I'm going to show you again what</p> <p>16 we marked as Exhibit 2 to your deposition of the</p> <p>17 letter received from your lawyer today just seven</p> <p>18 minutes before your deposition where your lawyer is</p> <p>19 claiming -- let me let you read it. I'm going to</p> <p>20 give you the controls again. Have you --</p> <p>21 MS. GESSNER: Well, strike that.</p> <p>22 Q. (By Ms. Gessner) Have you seen this letter dated</p> <p>23 October 15, 2021, that was sent to us seven minutes</p> <p>24 before your deposition prior to me showing it to</p> <p>25 you on the screen?</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>	<p>Page 33</p> <p style="text-align: right;">MARTIN BORUTTA 33</p> <p>1 MS. GESSNER: Counsel, counsel,</p> <p>2 object to form is all you're permitted to</p> <p>3 say and you need to stop. Other than</p> <p>4 object to form, stop.</p> <p>5 Q. (By Ms. Gessner) Mr. Borutta, this document that's</p> <p>6 been marked as Exhibit 2 -- my question is simple.</p> <p>7 Have you seen this document prior to me showing it</p> <p>8 right now, yes or no?</p> <p>9 A. Ms. Gessner, I don't know because I have not read</p> <p>10 this document, so I cannot tell what's the content</p> <p>11 and whether I know the content of the document.</p> <p>12 Q. Okay. So, Mr. Borutta, I have given you the</p> <p>13 controls to review this document that's been marked</p> <p>14 as Exhibit 2 to your deposition and the time is</p> <p>15 9:51 a.m. Please let me know when you've finished</p> <p>16 reading it.</p> <p>17 A. (Reviews document.) Yes.</p> <p>18 Q. Have you finished reading, Mr. Borutta?</p> <p>19 A. I have finished reading, yes.</p> <p>20 MS. GESSNER: At 9:56. Took him</p> <p>21 five minutes to read.</p> <p>22 Q. (By Ms. Gessner) Mr. Borutta, you said you had an</p> <p>23 understanding what the word compel means, which is</p> <p>24 you're required to produce, correct?</p> <p>25 A. Yes.</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>

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<p>Sheet 10 Page 34</p> <p style="text-align: right;">MARTIN BORUTTA 34</p> <p>1 Q. And nowhere in Exhibit 1 does it say from the court 2 that you don't have to produce and that we have to 3 ask you questions during a deposition. The court 4 required you to produce certain information, 5 correct? 6 MR. KLASS: Object to the form. 7 A. Yes. 8 Q. (By Ms. Gessner) And on Exhibit 2 your lawyer is 9 basically not providing the information, instead 10 saying we can request it at this deposition; isn't 11 that accurate? 12 MR. KLASS: Object to the form. 13 A. I don't know. I'm not a lawyer. 14 Q. (By Ms. Gessner) Does Teupen have an organizational 15 chart? 16 A. You provided the Teupen organizational chart 17 yesterday. 18 Q. That's not my question. I asked you does Teupen 19 have an organizational chart in its possession. 20 A. No. 21 Q. So you say we provided an organizational chart. Is 22 it your position that Ms. Acevedo created that 23 chart? 24 A. I don't know if she -- 25 Q. Go ahead. I'm sorry. Well, then, Mr. Borutta, you www.thompsonmi 1 1 s.com</p>	<p>Page 36</p> <p style="text-align: right;">MARTIN BORUTTA 36</p> <p>1 A. No. I'm not a lawyer. 2 Q. Your lawyer seems to be greatly confused in that he 3 says this isn't a meet and confer, but are you 4 aware of any rule or law or anything that required 5 plaintiff to meet and confer and to make you comply 6 with the court? 7 MR. KLASS: Object to the form. 8 A. No. I am not -- I am not a lawyer. 9 Q. (By Ms. Gessner) Are you aware that when we seek 10 court relief that Teupen could be forced to pay our 11 legal fees and costs as a result of Teupen's lack 12 of compliance with the court's order? 13 MR. KLASS: Object to the form. 14 A. Nope, I'm not aware. 15 Q. (By Ms. Gessner) Looking on page 2 of 16 interrogatory 10, do you see at the bottom -- at 17 the top of your screen you see the words 18 interrogatory 10? 19 A. Yes. 20 Q. Do you see the bottom next-to-last sentence of that 21 paragraph where it says, "As for your complaint 22 regarding the response that plaintiff made comments 23 or statements about her work duties from time to 24 time, this is an appropriate response to this 25 interrogatory. You're also free to ask Mr. Borutta www.thompsonmi 1 1 s.com</p>
<p>Page 35</p> <p style="text-align: right;">MARTIN BORUTTA 35</p> <p>1 said that I provided an -- or we provided an 2 organizational chart. What chart are you talking 3 about? 4 A. You provided an organizational chart. I don't know 5 what the -- how do you call that, the bench 6 numbers, I don't recall what's that called. 7 Q. Is it your testimony that Teupen does not have an 8 organizational chart at all sitting here today? 9 MR. KLASS: Object to the form. 10 A. You have the organizational chart. Ms. Acevedo 11 took -- it looks like she took my organizational 12 chart. I don't have another one and you provide -- 13 Q. (By Ms. Gessner) You're aware that the court has 14 ordered you to produce the organizational chart 15 from Teupen, aren't you? 16 MR. KLASS: Object to the form. 17 A. No. 18 Q. (By Ms. Gessner) Are you aware of that now sitting 19 here today? 20 MR. KLASS: Object to the form. 21 A. I fulfilled all my requests of my lawyer, so that's 22 what I'm aware of. That's what I can tell you. 23 Q. (By Ms. Gessner) And do you have any understanding 24 of the difference between a request for discovery 25 and a court order? www.thompsonmi 1 1 s.com</p>	<p>Page 37</p> <p style="text-align: right;">MARTIN BORUTTA 37</p> <p>1 about any alleged complaints at his deposition." 2 Did you see that? 3 A. Yes, I see that. 4 Q. Are you aware that you have responded to discovery 5 that says that you are aware that Ms. Acevedo made 6 complaints to you from time to time about her work 7 duties? 8 MR. KLASS: Object to the form. 9 A. That's too broad. She made complaints and I can't 10 tell you the exact complaints she made. 11 Q. (By Ms. Gessner) Okay. Tell me every complaint 12 that you believe that Ms. Acevedo made while she 13 was working at Teupen. 14 MR. KLASS: Object to the form. 15 A. I remember one complaint so that from time to time 16 is maybe not correct, and that was maybe in October 17 and she told me her workload is too high, she needs 18 -- or she asked me to hire an additional person to 19 take off all the stuff for invoices and bills. 20 That was her complaint. 21 Q. (By Ms. Gessner) Any others that you can recall? 22 A. We had a short conversation during the Christmas 23 party, but I don't know whether that was a 24 complaint. That was just her expression, and her 25 words were she doesn't like to work with Mr. Liebl www.thompsonmi 1 1 s.com</p>

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<p>Sheet 11 Page 38</p> <p style="text-align: right;">MARTIN BORUTTA 38</p> <p>1 and with Ms. Molyn.</p> <p>2 Q. Did you ask her why?</p> <p>3 A. She didn't explain. She doesn't like them. That</p> <p>4 was her expression.</p> <p>5 Q. Did you ask her why?</p> <p>6 A. She told me she doesn't like them.</p> <p>7 Q. Did you ask her why she doesn't like them?</p> <p>8 A. I don't remember.</p> <p>9 Q. Did you do any investigation whatsoever as to why</p> <p>10 Ms. Acevedo was complaining to you about Mr. Liebl</p> <p>11 or Ms. Molyn?</p> <p>12 A. She was not complaining about. She told me she</p> <p>13 doesn't like them and she doesn't like to work with</p> <p>14 them. That's a different story for me. That's not</p> <p>15 a complaint about the people. It's a complaint</p> <p>16 about that she doesn't like them and doesn't like</p> <p>17 to work with them. It was December 20 after the</p> <p>18 Christmas party.</p> <p>19 Q. And again, you didn't do anything to investigate</p> <p>20 Ms. Acevedo's complaint, did you?</p> <p>21 MR. KLASS: Object to the form.</p> <p>22 A. I don't remember.</p> <p>23 Q. (By Ms. Gessner) Well, is that a you didn't do</p> <p>24 anything or you could have done something but you</p> <p>25 don't remember?</p> <p style="text-align: right;">www.thompsonmi 1 1 s.com</p>	<p>Page 40</p> <p style="text-align: right;">MARTIN BORUTTA 40</p> <p>1 testimony was you were looking for Ms. Acevedo's</p> <p>2 mistakes and demoted her. Is that accurate?</p> <p>3 MR. KLASS: Object to the form.</p> <p>4 A. It was -- the decision was already taken in the</p> <p>5 morning before I talked with her in the afternoon,</p> <p>6 because she did the final mistake and that's why I</p> <p>7 took my decision, so I didn't have to investigate</p> <p>8 anything. I just had to take my decision and the</p> <p>9 decision was taken before our meeting.</p> <p>10 Q. (By Ms. Gessner) So again, Mr. Borutta, you're not</p> <p>11 responding to my question. Did you investigate</p> <p>12 Ms. Acevedo's complaints to you about her working</p> <p>13 conditions?</p> <p>14 MR. KLASS: Object to the form.</p> <p>15 A. I don't remember.</p> <p>16 Q. (By Ms. Gessner) Did you follow up with Ms. Acevedo</p> <p>17 and ask her for more details about how she was</p> <p>18 being treated by Mr. Liebl?</p> <p>19 A. I couldn't have asked Ms. Acevedo because she was</p> <p>20 on vacation and I was not in the office to ask her,</p> <p>21 and the decision was taken to demote her, to get</p> <p>22 her a job she could fulfill, and the decision was</p> <p>23 taken by me.</p> <p>24 Q. We're going to talk about that demotion in just a</p> <p>25 bit, but I would ask that you answer the question</p> <p style="text-align: right;">www.thompsonmi 1 1 s.com</p>
<p>Page 39</p> <p style="text-align: right;">MARTIN BORUTTA 39</p> <p>1 MR. KLASS: Object to the form.</p> <p>2 A. I don't remember means I don't remember.</p> <p>3 Q. (By Ms. Gessner) What is the normal process when</p> <p>4 you have an employee complain to you about her</p> <p>5 working conditions?</p> <p>6 A. I listen to the complaint and then I do an</p> <p>7 investigation.</p> <p>8 Q. Did you do an investigation when Ms. Acevedo</p> <p>9 complained to you about Mr. Liebl and Ms. Molyn?</p> <p>10 A. I did an investigation.</p> <p>11 Q. Tell me everything you did as part of your</p> <p>12 investigation regarding Ms. Acevedo's complaints.</p> <p>13 A. I recalled all of Ms. Acevedo's mistakes she made,</p> <p>14 the money she costed me at that time, and took my</p> <p>15 decision to demote her.</p> <p>16 Q. So instead of investigating Ms. Acevedo's</p> <p>17 complaints, you instead took retaliatory action</p> <p>18 against her by demoting her?</p> <p>19 MR. KLASS: Object to the form.</p> <p>20 A. You got to ask your question again because I did</p> <p>21 not do anything that was retaliation, so --</p> <p>22 Q. (By Ms. Gessner) My question, Mr. Borutta -</p> <p>23 Mr. Borutta, my question to you was very clear.</p> <p>24 Tell me everything you did to investigate</p> <p>25 Ms. Acevedo's complaints. And I believe your</p> <p style="text-align: right;">www.thompsonmi 1 1 s.com</p>	<p>Page 41</p> <p style="text-align: right;">MARTIN BORUTTA 41</p> <p>1 I'm asking of you regarding your statement that you</p> <p>2 investigated Ms. Acevedo's complaints about how she</p> <p>3 was being treated by Mr. Liebl and Ms. Molyn. So I</p> <p>4 still haven't heard anything that you said you did</p> <p>5 to investigate.</p> <p>6 A. Yeah, because the question --</p> <p>7 MR. KLASS: Object to the form.</p> <p>8 MS. GESSNER: We're all talking over</p> <p>9 each other and I'd ask that we stop.</p> <p>10 David, let your client speak before you</p> <p>11 object. Let me finish speaking before</p> <p>12 you object.</p> <p>13 Q. (By Ms. Gessner) And, Mr. Borutta, I did not hear</p> <p>14 your answer, so could you please restate your</p> <p>15 answer?</p> <p>16 MR. KLASS: Object to the form.</p> <p>17 A. I can restate my answer, but your question was</p> <p>18 incorrect. You've got to recall your question and</p> <p>19 ask it again because I did not tell you that she</p> <p>20 claimed that she was mistreated. I told you that</p> <p>21 she told me she does not like to work together with</p> <p>22 Mr. Liebl and Ms. Molyn. That's what she said.</p> <p>23 Q. (By Ms. Gessner) Let's break it down. When she</p> <p>24 told you this --</p> <p>25 A. No.</p> <p style="text-align: right;">www.thompsonmi 1 1 s.com</p>

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<p>Sheet 12 Page 42</p> <p style="text-align: right;">MARTIN BORUTTA 42</p> <p>1 Q. -- did you do anything to follow up with her about</p> <p>2 why she did not like working with Mr. Liebl or</p> <p>3 Ms. Molyn?</p> <p>4 MR. KLASS: Object to the form.</p> <p>5 A. In that conversation I told Ms. Acevedo that they</p> <p>6 got to find a way to work as a team because they</p> <p>7 are a team, and the main thing she told me and I</p> <p>8 think you will find that also in her email on</p> <p>9 December 30, that she does not trust Ms. Molyn, and</p> <p>10 I told her that she could trust her because that is</p> <p>11 my decision to trust her.</p> <p>12 Q. (By Ms. Gessner) Anything else that you did -- when</p> <p>13 Ms. Acevedo told you that she did not like working</p> <p>14 with Mr. Liebl or Ms. Molyn, what did you do to</p> <p>15 find out why?</p> <p>16 MR. KLASS: Object to the form.</p> <p>17 A. I don't remember.</p> <p>18 Q. (By Ms. Gessner) Did you ever speak with Mr. Liebl</p> <p>19 about Ms. Acevedo's complaints about him?</p> <p>20 A. I don't remember.</p> <p>21 Q. I didn't hear your answer.</p> <p>22 A. I don't remember.</p> <p>23 Q. Did you ever discuss Mr. Liebl -- how do you say</p> <p>24 his name? Is it Liebl or Liebl?</p> <p>25 A. Liebl.</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>	<p>Page 44</p> <p style="text-align: right;">MARTIN BORUTTA 44</p> <p>1 December 3 email. What other complaints, comments</p> <p>2 or statements about Ms. Acevedo's work duties are</p> <p>3 you referring to in your answer that you provided</p> <p>4 from time to time?</p> <p>5 MR. KLASS: Object to the form.</p> <p>6 A. First of all, it wasn't correctly said because</p> <p>7 Ms. Acevedo's email from December 13, not 3rd.</p> <p>8 Q. (By Ms. Gessner) Thank you for that clarification.</p> <p>9 It wasn't clear when you said it the first time.</p> <p>10 But regardless --</p> <p>11 A. No.</p> <p>12 Q. Wait. Other than December 13 and other than the</p> <p>13 Christmas party, what are you referring to when you</p> <p>14 answered the court-ordered interrogatories by</p> <p>15 saying from time to time?</p> <p>16 A. I already --</p> <p>17 MR. KLASS: Object to form.</p> <p>18 A. -- gave you the answer before, but she -- I don't</p> <p>19 remember exactly. I think it was in October that</p> <p>20 she said she needs somebody else to support her to</p> <p>21 fulfill her work duties because she is overloaded</p> <p>22 and she has too long. I don't remember exactly. I</p> <p>23 just know that she asked me for like an assistant</p> <p>24 in a 13-people company, for our company. That's</p> <p>25 what I remember.</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>
<p>Page 43</p> <p style="text-align: right;">MARTIN BORUTTA 43</p> <p>1 Q. Did you ever discuss Ms. Acevedo with Mr. Liebl at</p> <p>2 all?</p> <p>3 A. I don't remember.</p> <p>4 Q. I think that you earlier said that you had only</p> <p>5 made I think seven trips to the United States from</p> <p>6 Germany between July 2019 and December 2019, is</p> <p>7 that correct?</p> <p>8 A. That is correct.</p> <p>9 Q. At any point during those trips did you make any</p> <p>10 effort to meet with Ms. Acevedo regarding her</p> <p>11 working conditions?</p> <p>12 A. We met several times, but I cannot recall specific</p> <p>13 matters and we had no specific discussions about</p> <p>14 working conditions.</p> <p>15 Q. So in your response to interrogatories that you</p> <p>16 verified and in your lawyer's letter of this</p> <p>17 morning it expressly says that you were aware that</p> <p>18 Ms. Acevedo had made comments or statements about</p> <p>19 her work duties from time to time. Do you see that</p> <p>20 on the screen?</p> <p>21 A. Yes, I see that.</p> <p>22 Q. And you've only told me about one instance on</p> <p>23 December 20 at the Christmas party that Ms. Acevedo</p> <p>24 complained to you about not liking working with</p> <p>25 Mr. Liebl and Ms. Molyn and you've referenced a</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>	<p>Page 45</p> <p style="text-align: right;">MARTIN BORUTTA 45</p> <p>1 Q. (By Ms. Gessner) Well, at all times you haven't had</p> <p>2 13 people. You've had in excess of 20 people,</p> <p>3 isn't that correct?</p> <p>4 A. That is not correct. That was before '19.</p> <p>5 Q. Well, over the last two years prior to your</p> <p>6 unlawful termination of Ms. Acevedo, Teupen had 20</p> <p>7 employees on average, correct?</p> <p>8 MR. KLASS: Object to the form.</p> <p>9 A. No, that's not correct.</p> <p>10 Q. (By Ms. Gessner) Well, we'll take a look at that</p> <p>11 document here in a minute and maybe that will</p> <p>12 refresh your recollection.</p> <p>13 You heard Ms. Acevedo's testimony yesterday</p> <p>14 indicating that she had complained to you about how</p> <p>15 she was being treated several times and attempted</p> <p>16 to speak with you several times and you ignored</p> <p>17 her. Do you recall that testimony?</p> <p>18 MR. KLASS: Object to the form.</p> <p>19 A. That is not what I recall from yesterday. She</p> <p>20 couldn't remember and she thought she tried</p> <p>21 sometime, but it's not correct because I have an</p> <p>22 open-door policy and as soon as I am in the office</p> <p>23 employees can come in and talk to me, but you've</p> <p>24 got to do it. You've got to just come in and talk</p> <p>25 to me.</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>

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<p>Sheet 13 Page 46</p> <p style="text-align: right;">MARTIN BORUTTA 46</p> <p>1 Q. (By Ms. Gessner) But on December 20 when</p> <p>2 Ms. Acevedo exercised your, quote, open-door</p> <p>3 policy, you didn't do anything to follow up with</p> <p>4 her or Mr. Liebl at all, did you?</p> <p>5 MR. KLASS: Object to the form.</p> <p>6 A. I explained it before already that the demotion of</p> <p>7 Ms. Acevedo was already -- my decision was already</p> <p>8 taken and that it has nothing to do with any</p> <p>9 treatment or whatever. That was just the poor work</p> <p>10 performance of Ms. Acevedo.</p> <p>11 Q. (By Ms. Gessner) When did you decide to demote</p> <p>12 Ms. Acevedo?</p> <p>13 A. In the morning of December 20.</p> <p>14 Q. So the morning of the company Christmas party you</p> <p>15 decide to demote Ms. Acevedo?</p> <p>16 A. Yes.</p> <p>17 Q. How is it that --</p> <p>18 MS. GESSNER: Strike that.</p> <p>19 Q. (By Ms. Gessner) Tell me all the reasons that you</p> <p>20 decided to demote Ms. Acevedo.</p> <p>21 MR. KLASS: Object to the form.</p> <p>22 Q. (By Ms. Gessner) You understand my question,</p> <p>23 Mr. Borutta?</p> <p>24 A. I understand your question, Ms. Gessner. It was</p> <p>25 ongoing mistakes she made that cost the company a</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>	<p>Page 48</p> <p style="text-align: right;">MARTIN BORUTTA 48</p> <p>1 later and there were some small things that just</p> <p>2 added up. The main thing was the problem with</p> <p>3 Mr. Taft. I think that was -- I don't recall the</p> <p>4 exact date, but I think it was in October or</p> <p>5 November when the problems with Mr. Taft came up.</p> <p>6 I don't recall exactly.</p> <p>7 Q. Anything else?</p> <p>8 MR. KLASS: Object to the form.</p> <p>9 A. Different things, a lot of small things.</p> <p>10 Q. (By Ms. Gessner) Again, anything else that you can</p> <p>11 recall that you have testified were the mistakes</p> <p>12 that Ms. Acevedo made?</p> <p>13 MR. KLASS: Object to the form.</p> <p>14 A. I told you wrong financial statement, the Ben Taft</p> <p>15 case, late payment fees, small stuff. It's three</p> <p>16 years ago. I don't recall all the stuff, but that</p> <p>17 was a lot of things that added up and my</p> <p>18 decision --</p> <p>19 Q. (By Ms. Gessner) I'm sorry. I keep thinking you're</p> <p>20 done when you're not. Can you bring yourself</p> <p>21 closer to the microphone because you're sitting too</p> <p>22 far back and I'm having a difficult time hearing</p> <p>23 you.</p> <p>24 A. The microphone is here.</p> <p>25 Q. Well, can you bring your face a little closer so I</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>
<p>Page 47</p> <p style="text-align: right;">MARTIN BORUTTA 47</p> <p>1 lot of money. For example, the Taft mistake</p> <p>2 Ms. Acevedo made and other mistakes regarding sales</p> <p>3 tax, late payments and other things that added up,</p> <p>4 and in the morning of the December or evening</p> <p>5 before she sent out the financial statement of</p> <p>6 November that was just \$100,000 off in the profit,</p> <p>7 and that was the final thing for me to understand</p> <p>8 that she's not able to perform her work duties as</p> <p>9 an accountant in the way she has to.</p> <p>10 Q. Who brought to your attention those alleged</p> <p>11 mistakes that you just testified to?</p> <p>12 A. I found them myself.</p> <p>13 Q. When did you find the mistake regarding the sales</p> <p>14 tax late payment?</p> <p>15 A. That was I think in October or November. We had</p> <p>16 some other payments that were late and later on I</p> <p>17 figured out that -- I think that was after</p> <p>18 Ms. Acevedo that we had a tax lien in Ohio. Nobody</p> <p>19 informed me and now you can ask me the question,</p> <p>20 who's the responsible accountant at Teupen that</p> <p>21 should normally inform the CEO of Teupen that I get</p> <p>22 a tax lien?</p> <p>23 Q. So your testimony is you found out in October or</p> <p>24 November of --</p> <p>25 A. No. The other one was the -- the tax lien was</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>	<p>Page 49</p> <p style="text-align: right;">MARTIN BORUTTA 49</p> <p>1 could read your lips then because I'm not able to</p> <p>2 hear you clearly.</p> <p>3 So you remembered with specificity</p> <p>4 Ms. Acevedo's December 13 email. Did you review</p> <p>5 that email prior to your deposition?</p> <p>6 MR. KLASS: Object to the form.</p> <p>7 A. It was December 30, not 13. Thirty, three zero.</p> <p>8 Q. (By Ms. Gessner) Say it again, please.</p> <p>9 A. It was December 30, three zero.</p> <p>10 Q. So after she had complained to you about Mr. Liebl</p> <p>11 and Ms. Molyn, telling you that she was having</p> <p>12 trouble working with them at the Christmas party,</p> <p>13 she complains to you again on December 30, is that</p> <p>14 correct?</p> <p>15 A. No, that is not correct. She had sent me an email</p> <p>16 on December 30 regarding her demotion because I was</p> <p>17 not in the office and that's why I could not</p> <p>18 explain her when she was being demoted, and then</p> <p>19 she sent me that email, and as I had no email</p> <p>20 access, I did not answer.</p> <p>21 Q. Well, Mr. Borutta, were you in person at the</p> <p>22 Christmas party on December 20?</p> <p>23 A. Yes, I was. I told you before.</p> <p>24 Q. And your testimony is that you allegedly made the</p> <p>25 decision to demote her before the Christmas party,</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>

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<p>Sheet 14 Page 50</p> <p style="text-align: right;">MARTIN BORUTTA 50</p> <p>1 correct?</p> <p>2 A. Yes, that is correct.</p> <p>3 Q. Well, why didn't you have a conversation about this</p> <p>4 demotion with Ms. Acevedo in person on December 20?</p> <p>5 A. Because that is not my style to do that before</p> <p>6 Christmas and she was on Christmas vacation the</p> <p>7 next week. That's why I didn't do it.</p> <p>8 Q. When did you inform Ms. Acevedo that she was</p> <p>9 demoted?</p> <p>10 A. I did not inform Ms. Acevedo. As I said before, I</p> <p>11 was not in the office. I handed that task over to</p> <p>12 Ms. Molyn and Mr. Liebl.</p> <p>13 Q. But it was after Ms. Acevedo had directly</p> <p>14 complained to you about Mr. Liebl and Ms. Molyn,</p> <p>15 correct?</p> <p>16 MR. KLASS: Object to the form.</p> <p>17 A. She had not directly complained about Ms. Molyn and</p> <p>18 Mr. Liebl. She said she doesn't like them.</p> <p>19 Q. (By Ms. Gessner) Mr. Borutta, you were on notice</p> <p>20 that Ms. Acevedo was having trouble with Mr. Liebl</p> <p>21 and Ms. Molyn at least as early as December 20,</p> <p>22 correct?</p> <p>23 MR. KLASS: Object to the form.</p> <p>24 A. No, I was not aware.</p> <p>25 Q. (By Ms. Gessner) You just testified on December 20</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>	<p>Page 52</p> <p style="text-align: right;">MARTIN BORUTTA 52</p> <p>1 correct?</p> <p>2 MR. KLASS: Object to the form.</p> <p>3 A. I don't know if she was aware or not because I am</p> <p>4 not Ms. Acevedo.</p> <p>5 Q. (By Ms. Gessner) Well, Mr. Borutta, you had not</p> <p>6 informed Ms. Acevedo that she was going to be</p> <p>7 demoted prior to December 20, correct?</p> <p>8 A. No, I did not.</p> <p>9 Q. Mr. Borutta, you had not even given Ms. Acevedo any</p> <p>10 type of performance feedback indicating that she</p> <p>11 was going to be demoted if things didn't improve</p> <p>12 prior to December 20, correct?</p> <p>13 A. That is not true for Ms. Acevedo. That is the same</p> <p>14 thing you can count on that is for Ms. Acevedo,</p> <p>15 Mr. Taft, Mr. Kesser, you know, and everybody else,</p> <p>16 because I don't do performance reviews. You know</p> <p>17 your job duties, you do your tasks, you fulfill</p> <p>18 them, everything is fine. That's how it works with</p> <p>19 me and at Teupen. I don't have any obligation to</p> <p>20 give you any reviews. Or do I?</p> <p>21 Q. So Ms. Acevedo was not informed that you had made a</p> <p>22 decision to demote her until after she had</p> <p>23 complained to you about Mr. Liebl and Ms. Molyn,</p> <p>24 correct?</p> <p>25 MR. KLASS: Object to the form.</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>
<p>Page 51</p> <p style="text-align: right;">MARTIN BORUTTA 51</p> <p>1 at the Christmas party Ms. Acevedo told you that</p> <p>2 she did not like working with Mr. Liebl and</p> <p>3 Ms. Molyn, correct?</p> <p>4 A. That is correct.</p> <p>5 Q. And you didn't do anything to follow up prior to</p> <p>6 informing her of her demotion as to why she was</p> <p>7 having trouble with Mr. Liebl and Ms. Molyn,</p> <p>8 correct?</p> <p>9 MR. KLASS: Object to the form.</p> <p>10 A. First of all, you're asking the same question five</p> <p>11 times. Second of all, it is not correct what</p> <p>12 you're saying. You're trying to turn my words in</p> <p>13 my mouth and that is not correct. I'll explain</p> <p>14 again what Ms. Acevedo said during our meeting at</p> <p>15 the Christmas party, she doesn't like Mr. Liebl and</p> <p>16 Ms. Molyn and she doesn't like to work together</p> <p>17 with them. That's what she said December 20 in the</p> <p>18 afternoon when the decision was already taken to</p> <p>19 demote her. That's the only thing that happened</p> <p>20 during that afternoon during that meeting, and she</p> <p>21 did not complain any time before that she has</p> <p>22 problems with Mr. Liebl or with Ms. Molyn.</p> <p>23 Q. (By Ms. Gessner) Ms. Acevedo was not aware that any</p> <p>24 potential demotion was going to happen when she</p> <p>25 complained to you about Mr. Liebl and Ms. Molyn,</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>	<p>Page 53</p> <p style="text-align: right;">MARTIN BORUTTA 53</p> <p>1 A. I don't know whether she knew it, I told you</p> <p>2 before, because I am not Ms. Acevedo. I don't know</p> <p>3 what she knew.</p> <p>4 Q. (By Ms. Gessner) But, Mr. Borutta, you did not tell</p> <p>5 her that she was going to be demoted before</p> <p>6 December 20, correct?</p> <p>7 MR. KLASS: Object to form.</p> <p>8 A. No, I did not tell her and I said it already</p> <p>9 before.</p> <p>10 Q. (By Ms. Gessner) You had not instructed Mr. Liebl</p> <p>11 to tell Ms. Acevedo that she was going to be</p> <p>12 demoted before December 20, correct?</p> <p>13 A. That is correct.</p> <p>14 Q. And you had not instructed anyone to inform</p> <p>15 Ms. Acevedo that she was going to be demoted prior</p> <p>16 to her complaint about Mr. Liebl and Ms. Molyn,</p> <p>17 correct?</p> <p>18 A. That is correct.</p> <p>19 Q. When did you return to Germany after December 20?</p> <p>20 A. I think it was January 14 or 16. I don't remember.</p> <p>21 Q. Insperity was your PEO at the time --</p> <p>22 MS. GESSNER: Strike that.</p> <p>23 Q. (By Ms. Gessner) Insperity was the PEO supporting</p> <p>24 Teupen in December 2019, correct?</p> <p>25 A. Yes.</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>

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<p>Sheet 15 Page 54</p> <p style="text-align: right;">MARTIN BORUTTA 54</p> <p>1 Q. Did you instruct Ms. Acevedo to speak with anyone</p> <p>2 at Insperity about her complaints regarding</p> <p>3 Mr. Liebl or Ms. Molyn?</p> <p>4 A. No.</p> <p>5 Q. Did you ask anyone from Insperity to conduct any</p> <p>6 type of investigation on behalf of Teupen following</p> <p>7 Ms. Acevedo's complaint to you that you testified</p> <p>8 about that occurred on December 20?</p> <p>9 A. We're talking about December 20 in the afternoon.</p> <p>10 No, I did not. It was Friday afternoon.</p> <p>11 Q. Well, the next day is December 21, correct?</p> <p>12 A. Yeah. That was a Saturday.</p> <p>13 Q. And then Sunday is the 22nd, correct?</p> <p>14 A. Looks like.</p> <p>15 Q. And December 23, 2019, is a Monday, right?</p> <p>16 A. That is correct.</p> <p>17 Q. And it's still under your contract with Insperity</p> <p>18 that you could have picked up the phone and called</p> <p>19 someone from Insperity and asked them to</p> <p>20 investigate her complaints, correct?</p> <p>21 MR. KLASS: Object to form.</p> <p>22 A. Why should I --</p> <p>23 Q. (By Ms. Gessner) Mr. Borutta, you're not being</p> <p>24 responsive. I asked you, on Monday, December 23,</p> <p>25 Insperity was still your PEO, correct?</p> <p style="text-align: right;">www.thompsonmi</p> <p style="text-align: right;">1</p> <p style="text-align: right;">1</p> <p style="text-align: right;">s.com</p>	<p>Page 56</p> <p style="text-align: right;">MARTIN BORUTTA 56</p> <p>1 MR. KLASS: Object to the form.</p> <p>2 A. No, that is not correct.</p> <p>3 Q. (By Ms. Gessner) When did you make the decision to</p> <p>4 demote Ms. Acevedo?</p> <p>5 A. December 20.</p> <p>6 Q. That's what I just said.</p> <p>7 A. No, you said prior, so not prior. I made the final</p> <p>8 decision December 20.</p> <p>9 Q. Was the decision made before or after the Christmas</p> <p>10 party?</p> <p>11 A. It was made in the morning, December 20, before</p> <p>12 lunch.</p> <p>13 Q. What evidence of any sort do you have in your</p> <p>14 possession indicating that you made this decision</p> <p>15 to demote Ms. Acevedo on December 20?</p> <p>16 MR. KLASS: Object to the form.</p> <p>17 A. There will be no evidence, but I am the only one in</p> <p>18 the whole company who can take personnel decisions.</p> <p>19 Q. (By Ms. Gessner) So you didn't make any notes</p> <p>20 anywhere that you were going to demote her on that</p> <p>21 day, correct?</p> <p>22 A. Should I write a note to myself? That doesn't make</p> <p>23 sense.</p> <p>24 Q. I get to ask the questions today, Mr. Borutta. I'm</p> <p>25 trying to understand. Right now you, for the first</p> <p style="text-align: right;">www.thompsonmi</p> <p style="text-align: right;">1</p> <p style="text-align: right;">1</p> <p style="text-align: right;">s.com</p>
<p>Page 55</p> <p style="text-align: right;">MARTIN BORUTTA 55</p> <p>1 A. That's correct.</p> <p>2 Q. And you didn't pick up the phone at any point in</p> <p>3 time before the end of 2019, in between the 23rd</p> <p>4 and 31st and ask anybody to investigate</p> <p>5 Ms. Acevedo's complaints to you, did you?</p> <p>6 A. No.</p> <p>7 Q. And you didn't investigate them yourself, either,</p> <p>8 did you?</p> <p>9 MR. KLASS: Object to the form.</p> <p>10 A. I don't remember.</p> <p>11 Q. (By Ms. Gessner) Is there any document that would</p> <p>12 help refresh your recollection to remind you</p> <p>13 whether you conducted an investigation or not?</p> <p>14 A. I don't know.</p> <p>15 MS. GESSNER: We've been going about</p> <p>16 an hour, 20 minutes. Let's take a</p> <p>17 10-minute break.</p> <p>18 (RECESS)</p> <p>19 Q. (By Ms. Gessner) So, Mr. Borutta, as a reminder,</p> <p>20 you're under oath and subject to the penalty of</p> <p>21 perjury. Are you aware of that?</p> <p>22 A. Yes, I am.</p> <p>23 Q. Prior to the break you testified that you had made</p> <p>24 the decision to demote Ms. Acevedo prior to</p> <p>25 December 20, is that correct?</p> <p style="text-align: right;">www.thompsonmi</p> <p style="text-align: right;">1</p> <p style="text-align: right;">1</p> <p style="text-align: right;">s.com</p>	<p>Page 57</p> <p style="text-align: right;">MARTIN BORUTTA 57</p> <p>1 time, are informing us that you made this decision</p> <p>2 on the morning of the 20th. It seems very suspect</p> <p>3 considering that's the same day that Ms. Acevedo</p> <p>4 complained to you in person about Mr. Liebl and</p> <p>5 Ms. Molyn, so I'm trying to understand. What proof</p> <p>6 or evidence do you have to back up that the</p> <p>7 decision was made prior to the Christmas party on</p> <p style="text-align: right;">th</p> <p>8 December 20 ?</p> <p>9 MR. KLASS: Object to the form.</p> <p>10 Q. (By Ms. Gessner) Do you understand? Do you</p> <p>11 understand the context of my question now,</p> <p>12 Mr. Borutta?</p> <p>13 A. I told you before that I got Ms. Acevedo's</p> <p>14 financial statement of November in the morning of</p> <p>15 20th of December -- that's what I explained before</p> <p>16 -- and the profit was \$100,000 off, and that was</p> <p>17 the last mistake for me to take the decision.</p> <p>18 That's what I explained before, and if that's not</p> <p>19 evidence enough, I don't have more evidence.</p> <p>20 You've got to believe my decision.</p> <p>21 Q. So are there any other documents of any sort that</p> <p>22 supports that you made the decision on that day?</p> <p>23 MR. KLASS: Object to the form.</p> <p>24 A. I don't know. Are there any other documents?</p> <p>25 Q. (By Ms. Gessner) Have you given us all the</p> <p style="text-align: right;">www.thompsonmi</p> <p style="text-align: right;">1</p> <p style="text-align: right;">1</p> <p style="text-align: right;">s.com</p>

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<p>Sheet 16 Page 58</p> <p style="text-align: right;">MARTIN BORUTTA 58</p> <p>1 documents that you used in support of this decision</p> <p>2 prior to December 20 or on December 20?</p> <p>3 MR. KLASS: Object to the form.</p> <p>4 A. I don't know if you got the financial sheet, but I</p> <p>5 think you got it.</p> <p>6 Q. (By Ms. Gessner) Did you speak with Mr. Liebl</p> <p>7 before December 20 telling him that you were going</p> <p>8 to demote Ms. Acevedo?</p> <p>9 A. You already asked that before and I said, no, I did</p> <p>10 not recall --</p> <p>11 Q. Mr. Borutta, I get to ask the questions. Your</p> <p>12 answer isn't clear, so by saying you've asked that</p> <p>13 before, it doesn't really change whether I get to</p> <p>14 ask it or not. So I don't think I've asked that</p> <p>15 before and I'm asking it again because it isn't</p> <p>16 clear. Did you speak with Mr. Liebl about this</p> <p>17 alleged decision you made to demote Ms. Acevedo on</p> <p>18 December 20?</p> <p>19 MR. KLASS: Object to the form.</p> <p>20 A. No, I did not.</p> <p>21 Q. (By Ms. Gessner) And we've already -- just to be</p> <p>22 clear for the record, you did not communicate in</p> <p>23 any way to Ms. Acevedo that you'd made this</p> <p>24 decision until December 30, correct?</p> <p>25 MR. KLASS: Object to the form.</p> <p style="text-align: right;">www.thompsonmi 1 1 s.com</p>	<p>Page 60</p> <p style="text-align: right;">MARTIN BORUTTA 60</p> <p>1 ask anyone to investigate Ms. Acevedo's claims</p> <p>2 between December 20 and December 30, correct?</p> <p>3 MR. KLASS: Object to the form.</p> <p>4 A. I did not call Insperity.</p> <p>5 Q. (By Ms. Gessner) Did you email Insperity between</p> <p>6 December 20 and December 30, 2019?</p> <p>7 A. No, I did not email Insperity.</p> <p>8 Q. Did you ask your lawyers or any other third-party</p> <p>9 investigator, not privileged, any third party to</p> <p>10 come in and investigate the problems Ms. Acevedo</p> <p>11 was having with Mr. Liebl and Ms. Molyn?</p> <p>12 A. I don't remember.</p> <p>13 Q. You had access to Parker Poe or even Fisher</p> <p>14 Phillips or some other law firm to seek assistance</p> <p>15 in conducting an investigation, didn't you?</p> <p>16 A. Maybe I had access, yes.</p> <p>17 Q. Parker Poe, at least until late 2020, was the</p> <p>18 registered agent on file with the Secretary of</p> <p>19 State for Teupen, correct?</p> <p>20 A. I think so. I cannot tell you the exact date, but</p> <p>21 yeah, they have been the registered agent.</p> <p>22 Q. So as a result of Ms. Acevedo complaining about her</p> <p>23 demotion, that's why you fired her?</p> <p>24 MR. KLASS: Object to the form.</p> <p>25 A. It's not a result complaining about her demotion.</p> <p style="text-align: right;">www.thompsonmi 1 1 s.com</p>
<p>Page 59</p> <p style="text-align: right;">MARTIN BORUTTA 59</p> <p>1 A. That is correct. I did not communicate with</p> <p>2 Ms. Acevedo.</p> <p>3 Q. (By Ms. Gessner) And at all times you were demoting</p> <p>4 Ms. Acevedo in December 20, 2019, correct?</p> <p>5 MR. KLASS: Object to the form.</p> <p>6 A. Please ask the question again.</p> <p>7 Q. (By Ms. Gessner) You had not made a decision to</p> <p>8 terminate Ms. Acevedo on December 20, correct?</p> <p>9 A. That's correct.</p> <p>10 Q. When did you make the decision to terminate</p> <p>11 Ms. Acevedo?</p> <p>12 A. After I got a report about the scene Ms. Acevedo</p> <p>13 made to Mr. Liebl and Ms. Molyn when she got her</p> <p>14 demotion paper and after I told her on December 20</p> <p>15 that they have to work together as a team in</p> <p>16 future, and it looks like she refused to follow my</p> <p>17 orders. I took the decision to terminate, because</p> <p>18 if you don't follow what I tell you, I got to</p> <p>19 terminate. That's how it works.</p> <p>20 Q. And again I think we've already established you did</p> <p>21 nothing to investigate Ms. Acevedo's complaints</p> <p>22 about Mr. Liebl and Ms. Molyn, correct?</p> <p>23 MR. KLASS: Object to the form.</p> <p>24 A. You asked the question. I don't remember.</p> <p>25 Q. (By Ms. Gessner) And you didn't call Insperity and</p> <p style="text-align: right;">www.thompsonmi 1 1 s.com</p>	<p>Page 61</p> <p style="text-align: right;">MARTIN BORUTTA 61</p> <p>1 It is a result of, first of all, not being able to</p> <p>2 fulfill the duties of an accountant in the right</p> <p>3 way. That means that the company loses money</p> <p>4 through an accountant that is not able to fulfill</p> <p>5 its duties. Second of all, not following my</p> <p>6 instructions on December 20 after the or during the</p> <p>7 Christmas party, however you want to see the</p> <p>8 timing. When I told her that she got to work</p> <p>9 together with Mr. Liebl and Ms. Molyn as a team in</p> <p>10 future, and then she sends me an email where she</p> <p>11 says she doesn't want to work with Ms. Molyn and</p> <p>12 she doesn't trust her, so that's disrespectful</p> <p>13 against me and that's why I took the decision. She</p> <p>14 disrespects me and she did that in former times</p> <p>15 already. That was the final decision to terminate</p> <p>16 her contract.</p> <p>17 Q. (By Ms. Gessner) Mr. Borutta, you were aware that</p> <p>18 Ms. Acevedo was complaining to you about the way</p> <p>19 Mr. Liebl and Ms. Molyn were treating her because</p> <p>20 she is Latino; you were aware of that, weren't you?</p> <p>21 MR. KLASS: Object to the form.</p> <p>22 A. No, and your question is incorrect. You tried to</p> <p>23 put something in my mouth I never said, so please</p> <p>24 rephrase it.</p> <p>25 Q. (By Ms. Gessner) Mr. Borutta, you know that</p> <p style="text-align: right;">www.thompsonmi 1 1 s.com</p>

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<p>Sheet 17 Page 62</p> <p style="text-align: right;">MARTIN BORUTTA 62</p> <p>1 Ms. Acevedo is Latino, correct?</p> <p>2 A. No. I learned it during the EEOC claim. I didn't</p> <p>3 know which origin Ms. Acevedo is and it doesn't</p> <p>4 matter at Teupen which origin you are. Teupen is a</p> <p>5 company working worldwide. We got employees in</p> <p>6 every country of the world, so why should I care</p> <p>7 which origin you are?</p> <p>8 Q. You had seen Ms. Acevedo prior to December 20,</p> <p>9 correct?</p> <p>10 A. Sure, I saw her from time to time in '19.</p> <p>11 Q. You saw that she has darker skin, correct?</p> <p>12 A. Yes.</p> <p>13 Q. You saw that she has black hair, correct?</p> <p>14 A. Yes, she has black hair.</p> <p>15 Q. You've spoken to her and she has a Spanish accent,</p> <p>16 correct?</p> <p>17 A. No, that's not correct, because I'm not native. I</p> <p>18 cannot tell you which accent Ms. Acevedo has and</p> <p>19 you can tell me that I'm German maybe or maybe you</p> <p>20 don't know. I could be Russian, Polish, I could be</p> <p>21 Hungarian. Can you tell me what I am? Do you know</p> <p>22 where I'm from? No. That's my problem.</p> <p>23 Q. Ms. Acevedo -- is it your testimony that you had</p> <p>24 absolutely no knowledge that Ms. Acevedo, including</p> <p>25 her last name, was of Latino descent?</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>	<p>Page 64</p> <p style="text-align: right;">MARTIN BORUTTA 64</p> <p>1 she is aware that other Latino women had complained</p> <p>2 about the way they were treated at Teupen. You</p> <p>3 have no information or ability to reject that as</p> <p>4 being false, correct?</p> <p>5 MR. KLASS: Object to the form.</p> <p>6 A. I don't know it.</p> <p>7 Q. (By Ms. Gessner) So is that a no, you cannot in</p> <p>8 any way refute whether that's true or not?</p> <p>9 MR. KLASS: Object to the form.</p> <p>10 A. I cannot confirm whether it's true or wrong because</p> <p>11 I did not have any information about that.</p> <p>12 Q. (By Ms. Gessner) So Ms. Acevedo would be the one</p> <p>13 with the most information because of her connection</p> <p>14 with -- of her responsibilities with Insperity as</p> <p>15 to what internal complaints had been made by other</p> <p>16 employees, correct?</p> <p>17 MR. KLASS: Object to the form.</p> <p>18 A. Yeah, I think that's correct.</p> <p>19 Q. (By Ms. Gessner) Let me show you a document.</p> <p>20 Mr. Borutta, showing you a document we've marked as</p> <p>21 Exhibit 3 to your deposition. Do you see a</p> <p>22 document on the screen?</p> <p>23 A. I see a document on the screen.</p> <p>24 Q. It's a two-page document that is an email between</p> <p>25 me and your lawyer, David Klass, regarding</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>
<p>Page 63</p> <p style="text-align: right;">MARTIN BORUTTA 63</p> <p>1 A. That is correct.</p> <p>2 Q. Are you aware of any other Latino employees who</p> <p>3 have complained about how they were being treated</p> <p>4 at Teupen?</p> <p>5 A. I'm not aware of any complaints at Teupen of</p> <p>6 mistreatment or whatever you want to ask.</p> <p>7 Q. If an employee complained to Insperity, did</p> <p>8 Insperity inform you of such complaints?</p> <p>9 A. No, because I was not the supervisor in Insperity</p> <p>10 and I was not the administrator. That was</p> <p>11 Ms. Acevedo, and I was added very late just to</p> <p>12 support or whatever. I don't remember. No.</p> <p>13 Q. So is it your testimony that even though you are</p> <p>14 the person who does the hiring and firing, which</p> <p>15 you've already testified about, that Insperity</p> <p>16 doesn't report to you any employee complaints that</p> <p>17 have come in to them?</p> <p>18 MR. KLASS: Object to the form.</p> <p>19 A. That is 100 percent correct, because HR was done by</p> <p>20 Ms. Acevedo. She was the senior contact for</p> <p>21 Insperity.</p> <p>22 Q. (By Ms. Gessner) When did Ms. Acevedo become the</p> <p>23 senior contact with Insperity?</p> <p>24 A. When Ms. Geraghty left she took over her duties.</p> <p>25 Q. So Ms. Acevedo testified as she did yesterday that</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>	<p>Page 65</p> <p style="text-align: right;">MARTIN BORUTTA 65</p> <p>1 potential resolution of this matter. Have you seen</p> <p>2 this email before today?</p> <p>3 A. I don't know because I have not read it yet, so I</p> <p>4 cannot tell you whether I've seen it or not.</p> <p>5 Q. Please take a few minutes --</p> <p>6 A. I can't read it.</p> <p>7 Q. Please take a few minutes and scroll through and</p> <p>8 let me know when you're finished. The time is</p> <p>9 10:53. You have the ability to scroll.</p> <p>10 A. I know. Thank you. (Reviews document.) Okay.</p> <p>11 Q. Have you seen this document prior to today,</p> <p>12 Mr. Borutta?</p> <p>13 A. No.</p> <p>14 Q. Are you aware that Ms. Acevedo had made a</p> <p>15 settlement demand on October 12 that you rejected?</p> <p>16 A. Yes.</p> <p>17 Q. And it says that you want to wait until mediation</p> <p>18 to discuss settlement, is that correct?</p> <p>19 A. Yes.</p> <p>20 Q. Why?</p> <p>21 MR. KLASS: Object to -- I'm going</p> <p>22 to object based on attorney-client</p> <p>23 privilege and work product and direct my</p> <p>24 client not to answer the question.</p> <p>25 Q. (By Ms. Gessner) Mr. Borutta, I don't want to know</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>

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<p>Sheet 18 Page 66</p> <p style="text-align: right;">MARTIN BORUTTA 66</p> <p>1 anything your lawyer said to you or you said to you</p> <p>2 lawyer. I want to understand why it is that you</p> <p>3 want to wait until mediation to discuss settlement.</p> <p>4 A. That's a strategic decision I will not tell you.</p> <p>5 Q. A strategic --</p> <p>6 A. And it's a question I cannot ask with -- answer</p> <p>7 with yes or no, so --</p> <p>8 Q. It's a strategic decision. What is it that you</p> <p>9 think is going to change in this case between</p> <p>10 yesterday and November 9 at mediation?</p> <p>11 MR. KLASS: I'm going to object on</p> <p>12 the basis of attorney-client</p> <p>13 communications and attorney work product</p> <p>14 and instruct the client -- my client not</p> <p>15 to answer the question.</p> <p>16 Q. (By Ms. Gessner) Again so that Mr. Klass can stop</p> <p>17 hearing himself speak, I don't want to know</p> <p>18 anything your lawyers have said to you,</p> <p>19 Mr. Borutta, or that you've said to your lawyers.</p> <p>20 But your lawyer wrote to me and said that he's</p> <p>21 talked to you and that you want to wait until</p> <p>22 mediation to discuss settlement. I am entitled to</p> <p>23 ask you your thoughts, your opinions, your why, so</p> <p>24 help me understand what it is that you believe is</p> <p>25 going to change between October 12 or 13, when this</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>	<p>Page 68</p> <p style="text-align: right;">MARTIN BORUTTA 68</p> <p>1 than \$60,000 on legal fees?</p> <p>2 MR. KLASS: Objection. Asked and</p> <p>3 answered.</p> <p>4 A. I don't remember, Ms. Gessner.</p> <p>5 Q. (By Ms. Gessner) Do you know if you've spent \$5,000</p> <p>6 on legal fees?</p> <p>7 MR. KLASS: Objection. Asked and</p> <p>8 answered.</p> <p>9 MS. GESSNER: Your objection is</p> <p>10 improper. That's a totally different</p> <p>11 question. Mr. Klass, I'm going to have</p> <p>12 to start having her mark the record</p> <p>13 because your objections are becoming</p> <p>14 incredibly obstructive to the deposition</p> <p>15 and they're completely improper. You get</p> <p>16 to say object to the form. That's it.</p> <p>17 MR. KLASS: I object to the form and</p> <p>18 I agree generally that that is the case</p> <p>19 and I wish you would have followed it</p> <p>20 yesterday instead of making several</p> <p>21 speaking objections.</p> <p>22 MS. GESSNER: I did not.</p> <p>23 MR. KLASS: So I object to the</p> <p>24 form --</p> <p>25 MS. GESSNER: The record -- wait,</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>
<p>Page 67</p> <p style="text-align: right;">MARTIN BORUTTA 67</p> <p>1 discussion, and November 9 at mediation.</p> <p>2 A. Ms. Gessner, maybe nothing will change, but it's my</p> <p>3 decision. I do not have to explain you my</p> <p>4 decision, correct?</p> <p>5 Q. Again, you understand that if we prevail for</p> <p>6 Ms. Acevedo that Teupen would have to pay all of</p> <p>7 her legal fees. Do you understand that?</p> <p>8 MR. KLASS: Object to the form.</p> <p>9 A. Ms. Gessner, I answered your question. I will not</p> <p>10 answer any more question because I told you that's</p> <p>11 in my discretion and I did my decision. That's</p> <p>12 what I did. That's all I did.</p> <p>13 Q. (By Ms. Gessner) And you are aware that depositions</p> <p>14 are expensive, correct?</p> <p>15 A. Yes.</p> <p>16 Q. And you're aware that you could possibly have to</p> <p>17 pay for Ms. Acevedo's fees and costs, correct?</p> <p>18 A. Yes, I know that.</p> <p>19 Q. And can you recall how much money you've spent on</p> <p>20 legal fees to date?</p> <p>21 MR. KLASS: Objection to the form of</p> <p>22 the question. Asked and answered.</p> <p>23 A. I think you asked me that a third time. No, I</p> <p>24 cannot.</p> <p>25 Q. (By Ms. Gessner) Do you know if you've spent more</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>	<p>Page 69</p> <p style="text-align: right;">MARTIN BORUTTA 69</p> <p>1 wait, wait. The record from yesterday</p> <p>2 will speak for itself. This is my</p> <p>3 deposition. You need to render your</p> <p>4 objections to form.</p> <p>5 MR. KLASS: I object to the form of</p> <p>6 your question.</p> <p>7 Q. (By Ms. Gessner) Mr. Borutta, have you spent more</p> <p>8 than \$5,000 on legal fees with Fisher Phillips?</p> <p>9 MR. KLASS: Object to the form.</p> <p>10 A. I don't know. I don't remember.</p> <p>11 Q. (By Ms. Gessner) You have no recollection</p> <p>12 whatsoever as to how much you've spent on this</p> <p>13 case?</p> <p>14 MR. KLASS: Object to the form.</p> <p>15 A. No, I have no idea how much we spent on that case.</p> <p>16 I told you before.</p> <p>17 Q. (By Ms. Gessner) Mr. Borutta, how many employees</p> <p>18 currently work for Teupen in the United States?</p> <p>19 MR. KLASS: Object to the form.</p> <p>20 A. I think 14, 13 or 14.</p> <p>21 Q. (By Ms. Gessner) Please tell me their names.</p> <p>22 A. I cannot tell you the names. I have 180 employees</p> <p>23 worldwide, so I cannot tell you the names. If</p> <p>24 you've got to have something you can show me I can</p> <p>25 tell me the people are working at Teupen or not,</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>

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<p>Sheet 19 Page 70</p> <p style="text-align: right;">MARTIN BORUTTA 70</p> <p>1 but I cannot tell you the exact names of the people</p> <p>2 at Teupen.</p> <p>3 Q. (By Ms. Gessner) Well, Mr. Borutta, you have</p> <p>4 refused to give us the current org chart even</p> <p>5 though the court has compelled you to do so. So</p> <p>6 your lawyer says we have to ask you these questions</p> <p>7 and we're going to take that up with the court.</p> <p>8 But tell me, you are at the top of the food chain</p> <p>9 in Charlotte, is that correct? You're the top in</p> <p>10 the U.S. with Teupen?</p> <p>11 MR. KLASS: Object to the form.</p> <p>12 Q. (By Ms. Gessner) Is that correct?</p> <p>13 MR. KLASS: Same objection.</p> <p>14 A. I'm not -- I'm on the top of Teupen worldwide, yes,</p> <p>15 and also in the U.S.</p> <p>16 Q. (By Ms. Gessner) Who reports directly to you in the</p> <p>17 United States?</p> <p>18 A. Mr. Jason Rogers.</p> <p>19 Q. Please spell the names for the court reporter as</p> <p>20 you go.</p> <p>21 A. Jason Rogers, R-o-g-e-r-s.</p> <p>22 Q. Anyone else?</p> <p>23 A. No.</p> <p>24 Q. What is Mr. Rogers' role?</p> <p>25 A. Operations manager.</p> <p style="text-align: right;">www.thompsonmi</p> <p style="text-align: right;">1</p> <p style="text-align: right;">1</p> <p style="text-align: right;">s.com</p>	<p>Page 72</p> <p style="text-align: right;">MARTIN BORUTTA 72</p> <p>1 A. Morgan, M-o-r-g-a-n, E-l-d-e-r, I think.</p> <p>2 Q. Anyone else?</p> <p>3 A. No. I don't recall more names.</p> <p>4 Q. How long has Mr. Taylor been employed by Teupen?</p> <p>5 MR. KLASS: Form.</p> <p>6 A. I don't know.</p> <p>7 Q. (By Ms. Gessner) Did Mr. Taylor become -- was he</p> <p>8 employed with Teupen before you were hired?</p> <p>9 A. He was, I think so, employed with Teupen before I</p> <p>10 had the responsibility for the U.S., and that</p> <p>11 started in August '19.</p> <p>12 Q. How about Megan Bennett?</p> <p>13 A. She was with Teupen between before '19, yes.</p> <p>14 Q. Allen Bennett?</p> <p>15 A. Same for Allen Bennett.</p> <p>16 Q. James Crawford?</p> <p>17 A. Same for James Crawford.</p> <p>18 Q. And Morgan Elder?</p> <p>19 A. She started this year. I think so.</p> <p>20 Q. Did you hire Ms. Elder?</p> <p>21 A. I told somebody to accept or to give her an offer.</p> <p>22 Q. Who did you tell to give her an offer?</p> <p>23 A. Mr. Rogers, because he is the operations manager.</p> <p>24 Q. Does Mr. Liebl not work for you anymore?</p> <p>25 A. No.</p> <p style="text-align: right;">www.thompsonmi</p> <p style="text-align: right;">1</p> <p style="text-align: right;">1</p> <p style="text-align: right;">s.com</p>
<p>Page 71</p> <p style="text-align: right;">MARTIN BORUTTA 71</p> <p>1 Q. When was Mr. Rogers hired?</p> <p>2 MR. KLASS: Object to the form.</p> <p>3 A. I don't know.</p> <p>4 Q. (By Ms. Gessner) Did you hire Mr. Rogers?</p> <p>5 A. No.</p> <p>6 Q. Who did?</p> <p>7 MR. KLASS: Object to the form.</p> <p>8 A. I don't know.</p> <p>9 Q. (By Ms. Gessner) You said a minute ago that you're</p> <p>10 the only person who does the hiring and firing, so</p> <p>11 how is it possible that someone else hired</p> <p>12 Mr. Rogers?</p> <p>13 A. There was a time at Teupen before my lifetime and</p> <p>14 my time started in December '16, so there are some</p> <p>15 things I cannot tell you because I don't know them.</p> <p>16 Q. So Mr. Rogers was employed by Teupen before you</p> <p>17 became employed by Teupen?</p> <p>18 MR. KLASS: Object to the form.</p> <p>19 A. That is correct.</p> <p>20 Q. (By Ms. Gessner) Tell me the names of anyone else</p> <p>21 of the 13 or 14 people that you can remember</p> <p>22 sitting here today.</p> <p>23 A. Mr. James Taylor, Ms. Megan Bennett, Mr. Allen</p> <p>24 Bennett, Mr. James Crawford, and Ms. Morgan Elder.</p> <p>25 Q. Spell the last person's name.</p> <p style="text-align: right;">www.thompsonmi</p> <p style="text-align: right;">1</p> <p style="text-align: right;">1</p> <p style="text-align: right;">s.com</p>	<p>Page 73</p> <p style="text-align: right;">MARTIN BORUTTA 73</p> <p>1 Q. When did Mr. Liebl cease to work for Teupen?</p> <p>2 A. I fired Mr. Liebl end of June 2020.</p> <p>3 Q. June 2020, is that correct?</p> <p>4 A. Yeah.</p> <p>5 Q. Why did you fire Mr. Liebl?</p> <p>6 A. Because of not performing his job duties.</p> <p>7 Q. Did Mr. Liebl have a contract with Teupen?</p> <p>8 A. No, I don't think so.</p> <p>9 Q. Did you pay Mr. Liebl any severance?</p> <p>10 A. I think so. I don't remember.</p> <p>11 Q. Does Ms. Molyn still work for Teupen?</p> <p>12 A. No.</p> <p>13 Q. When did Ms. Molyn cease to work for Teupen?</p> <p>14 A. Ms. Molyn left the company end of 2020.</p> <p>15 Q. December 2020?</p> <p>16 A. Yes.</p> <p>17 Q. Did she quit?</p> <p>18 A. She quit, yes.</p> <p>19 Q. You didn't fire her?</p> <p>20 A. She quit.</p> <p>21 Q. Just making sure the record is clear as to whether</p> <p>22 she quit.</p> <p>23 A. Yeah.</p> <p>24 Q. Did she complain to you about her working</p> <p>25 conditions?</p> <p style="text-align: right;">www.thompsonmi</p> <p style="text-align: right;">1</p> <p style="text-align: right;">1</p> <p style="text-align: right;">s.com</p>

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<p>Sheet 20 Page 74</p> <p style="text-align: right;">MARTIN BORUTTA 74</p> <p>1 A. No.</p> <p>2 Q. Do you know why she quit?</p> <p>3 A. She's from South Carolina and she didn't like the</p> <p>4 travel, the whole time traveling over the I-85 one</p> <p>5 and a half hours in the morning and one and a half</p> <p>6 hours in the evening. That's what she told me.</p> <p>7 Q. Does Teupen currently have a CFO?</p> <p>8 A. You've got to be more specific. Teupen who?</p> <p>9 Q. Does Teupen --</p> <p>10 A. The group, the Teupen Group or Teupen USA?</p> <p>11 Q. Both. So does Teupen Germany have a CFO?</p> <p>12 A. Teupen Germany has a CFO, yes.</p> <p>13 Q. Is it the same CFO who's been in place the entire</p> <p>14 time that you have been the CEO in the United</p> <p>15 States?</p> <p>16 A. Yes.</p> <p>17 Q. What's this person's name?</p> <p>18 A. Ulf Birkenkamp.</p> <p>19 Q. Please spell it.</p> <p>20 A. U-l-f B-i-r-k-e-n-k-a-m-p.</p> <p>21 Q. Is there a CFO currently in the United States at</p> <p>22 Teupen?</p> <p>23 A. No.</p> <p>24 Q. You're using the outsourcing group, is that</p> <p>25 correct?</p> <p style="text-align: right;">www.thompsonmi</p> <p style="text-align: right;">1</p> <p style="text-align: right;">1</p> <p style="text-align: right;">s.com</p>	<p>Page 76</p> <p style="text-align: right;">MARTIN BORUTTA 76</p> <p>1 A. Yeah.</p> <p>2 Q. So again, please explain to me the difference</p> <p>3 between what a person who would be in the CFO role</p> <p>4 in United States would do differently than what the</p> <p>5 outsourcing CPH is going.</p> <p>6 A. CPH is doing daily work of an accountant, and a CFO</p> <p>7 would do controlling. He would be responsible for</p> <p>8 budgets and he would communicate with Germany</p> <p>9 regarding numbers.</p> <p>10 Q. Weren't those some of the same job tasks that you</p> <p>11 had given to Ms. Acevedo, to be doing the</p> <p>12 controlling, budgeting, and communicating with</p> <p>13 Germany regarding the numbers?</p> <p>14 MR. KLASS: Object to the form.</p> <p>15 Q. (By Ms. Gessner) Is it your testimony that those</p> <p>16 were not her responsibilities?</p> <p>17 A. It's part of her responsibilities. You cannot put</p> <p>18 them together. Ms. Acevedo was not responsible for</p> <p>19 any budget. Ms. Acevedo did not do controlling as</p> <p>20 we understand controlling. She just sent a form to</p> <p>21 Germany. That was all controlling she did, so</p> <p>22 nothing else. No comparisons, nothing else. That</p> <p>23 was not her job duties.</p> <p>24 Q. What was Ms. Sheri Geraghty doing for Teupen in</p> <p>25 2019?</p> <p style="text-align: right;">www.thompsonmi</p> <p style="text-align: right;">1</p> <p style="text-align: right;">1</p> <p style="text-align: right;">s.com</p>
<p>Page 75</p> <p style="text-align: right;">MARTIN BORUTTA 75</p> <p>1 A. No.</p> <p>2 MR. KLASS: Object to the form.</p> <p>3 Q. (By Ms. Gessner) You've given me the name of a</p> <p>4 group. I think it was CPH or something like that</p> <p>5 earlier today.</p> <p>6 A. CPH is the name and they are doing accounting.</p> <p>7 Q. They're doing the accounting, is that correct?</p> <p>8 A. Yeah. That's correct.</p> <p>9 Q. Are they doing any other kind of financial work for</p> <p>10 Teupen other than just accounting?</p> <p>11 A. No.</p> <p>12 Q. Tell me everything CPH is doing for Teupen.</p> <p>13 MR. KLASS: Object to the form.</p> <p>14 A. The daily accounting business.</p> <p>15 Q. (By Ms. Gessner) And how is what they're doing</p> <p>16 different than what a CFO would do?</p> <p>17 A. Do we really need to start to explain what a CFO</p> <p>18 and accounting is doing? That would take too long</p> <p>19 because a CFO is a way different position than just</p> <p>20 an accountant. We never had a CFO in U.S., so I</p> <p>21 don't know why I should explain that. They are</p> <p>22 doing accounting, the daily business of an</p> <p>23 accountant.</p> <p>24 Q. Mr. Borutta, I get to ask the questions. Please</p> <p>25 answer them. I don't need commentary.</p> <p style="text-align: right;">www.thompsonmi</p> <p style="text-align: right;">1</p> <p style="text-align: right;">1</p> <p style="text-align: right;">s.com</p>	<p>Page 77</p> <p style="text-align: right;">MARTIN BORUTTA 77</p> <p>1 A. I don't know.</p> <p>2 Q. You don't know? You don't know Sheri Geraghty?</p> <p>3 A. I know Sheri Geraghty.</p> <p>4 Q. How do know Sheri Geraghty?</p> <p>5 A. I met her.</p> <p>6 Q. You don't know anything about her job</p> <p>7 responsibilities when she was employed at Teupen?</p> <p>8 A. No.</p> <p>9 Q. Did Sheri Geraghty leave Teupen while you were the</p> <p>10 CEO?</p> <p>11 A. It was before I became the CEO of Teupen Germany,</p> <p>12 yes; the CEO of Teupen in the U.S., no.</p> <p>13 Q. What is the difference between Teupen Germany and</p> <p>14 Teupen U.S. other than location?</p> <p>15 A. Teupen USA is a legal entity with its own</p> <p>16 president, own financial everything, so it's a</p> <p>17 legal entity, and Germany is also a legal entity</p> <p>18 and Germany is the mother company.</p> <p>19 Q. Do they do anything different businesswise?</p> <p>20 A. Yes.</p> <p>21 Q. Tell me everything that the Teupen German company</p> <p>22 does that's different than the U.S.</p> <p>23 MR. KLASS: Object to the form.</p> <p>24 A. German -- Teupen Germany is a production facility.</p> <p>25 Teupen North America, Inc. is the sales and service</p> <p style="text-align: right;">www.thompsonmi</p> <p style="text-align: right;">1</p> <p style="text-align: right;">1</p> <p style="text-align: right;">s.com</p>

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<p>Sheet 21 Page 78</p> <p style="text-align: right;">MARTIN BORUTTA 78</p> <p>1 presales facility, so it's just service and sales.</p> <p>2 There's no production. It's way less people.</p> <p>3 Small company. That's a big difference.</p> <p>4 Q. (By Ms. Gessner) So does the sales and service in</p> <p>5 the U.S. only sell Teupen equipment in the U.S.?</p> <p>6 A. Yes.</p> <p>7 Q. Is there any sales or selling of equipment in</p> <p>8 Germany?</p> <p>9 A. Teupen Germany sells equipment in Germany.</p> <p>10 Q. And produces the equipment, correct?</p> <p>11 A. Correct. Teupen -- Teupen North America is the</p> <p>12 importer of Teupen machines from Germany.</p> <p>13 Q. Right, so they're connected. You can't sell</p> <p>14 something that's not being made in the U.S. because</p> <p>15 you sell it in the U.S. but it has to be shipped</p> <p>16 from Germany, correct?</p> <p>17 MR. KLASS: Object to the form.</p> <p>18 A. That is correct.</p> <p>19 Q. (By Ms. Gessner) They are not two distinct</p> <p>20 businesses as far as what they do, correct? One</p> <p>21 sells the equipment that the other makes; isn't</p> <p>22 that true?</p> <p>23 MR. KLASS: Object to the form.</p> <p>24 A. It's like -- Teupen North America is like all our</p> <p>25 other service and sales partners in the world. The</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>	<p>Page 80</p> <p style="text-align: right;">MARTIN BORUTTA 80</p> <p>1 MS. GESSNER: Well, strike that.</p> <p>2 Q. (By Ms. Gessner) Didn't Mr. Kesser report to you?</p> <p>3 A. He did.</p> <p>4 Q. And he reported to you when he was the person in</p> <p>5 charge of North America, correct?</p> <p>6 A. That is correct.</p> <p>7 Q. So it isn't as if you didn't have some</p> <p>8 responsibility for North America even when you were</p> <p>9 in Germany because you were responsible for</p> <p>10 Mr. Kesser, correct?</p> <p>11 MR. KLASS: Object to the form.</p> <p>12 A. That is correct, but not operational. Only</p> <p>13 strategic.</p> <p>14 Q. (By Ms. Gessner) Prior to you taking over</p> <p>15 Mr. Kesser's role in 2019, how much time did you</p> <p>16 spend in the United States?</p> <p>17 MR. KLASS: Object to the form.</p> <p>18 A. I don't know exactly, but not very much. I've been</p> <p>19 here twice a year, maximum three times a year, but</p> <p>20 I think twice a year. I don't remember.</p> <p>21 Q. (By Ms. Gessner) How long have you worked for</p> <p>22 Teupen?</p> <p>23 MR. KLASS: Object to the form.</p> <p>24 A. As I said before, since December '16.</p> <p>25 Q. (By Ms. Gessner) Well, that's Teupen -- is that</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>
<p>Page 79</p> <p style="text-align: right;">MARTIN BORUTTA 79</p> <p>1 difference is just that we own Teupen North</p> <p>2 America.</p> <p>3 Q. (By Ms. Gessner) That didn't answer my question,</p> <p>4 Mr. Borutta. In the United States, the equipment</p> <p>5 that is sold here by individuals who work here,</p> <p>6 they don't make equipment here. They have to sell</p> <p>7 it here and it gets shipped from Germany to the</p> <p>8 United States for any sales that have been made; is</p> <p>9 that accurate?</p> <p>10 A. That is accurate. Yeah, that's correct.</p> <p>11 Q. And you can't recall anything about what Sheri</p> <p>12 Geraghty did for Teupen North America?</p> <p>13 A. No, because I was not in the operational business</p> <p>14 before '19.</p> <p>15 Q. Who was?</p> <p>16 A. Mr. David Michael Kesser.</p> <p>17 Q. And who is Mr. Kesser?</p> <p>18 A. The former president, vice president, sales</p> <p>19 manager, whatever. He made a career at Teupen.</p> <p>20 Q. He made a career at Teupen?</p> <p>21 A. Yeah, he made it.</p> <p>22 Q. Did Mr. Kesser hire Ms. Geraghty?</p> <p>23 MR. KLASS: Object to the form.</p> <p>24 A. I don't know.</p> <p>25 Q. (By Ms. Gessner) So prior to you --</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>	<p>Page 81</p> <p style="text-align: right;">MARTIN BORUTTA 81</p> <p>1 Teupen North America or Teupen generally?</p> <p>2 A. You've got to ask me specific, please. Teupen</p> <p>3 Germany I started with December 1, 2016, and with</p> <p>4 the role in Teupen Germany I took over as the sole</p> <p>5 director of Teupen North America.</p> <p>6 Q. Where did you work before Teupen?</p> <p>7 A. I had my own company in Germany.</p> <p>8 Q. What's the name of it?</p> <p>9 A. My name business consulting.</p> <p>10 Q. Borutta Business Consulting?</p> <p>11 A. Martin Borutta.</p> <p>12 Q. Borutta. I'm sorry.</p> <p>13 A. The German name, Unternehmensberatung, but that's</p> <p>14 business consulting. It's a German word, so</p> <p>15 doesn't really matter.</p> <p>16 Q. What type of business consulting were you engaged</p> <p>17 in?</p> <p>18 A. Everything, financial, strategic, production.</p> <p>19 Q. How long did you own your own company?</p> <p>20 A. From 2015 -- or I did that job from 2015 to end of</p> <p>21 '16 when I started at Teupen.</p> <p>22 Q. What was your job -- were you employed before you</p> <p>23 started your own business?</p> <p>24 A. Before my consulting company? Yes.</p> <p>25 Q. Where were you employed before you started your</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>

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<p>Sheet 22 Page 82</p> <p style="text-align: right;">MARTIN BORUTTA 82</p> <p>1 consulting company?</p> <p>2 A. At Rofa Industrial Automation AG.</p> <p>3 Q. Please spell that.</p> <p>4 A. Rofa, R-o-f-a, Industrial Automation AG.</p> <p>5 Q. And where was this business located?</p> <p>6 A. In Germany.</p> <p>7 Q. Where in Germany?</p> <p>8 A. In -- Kolbermoor is the city, K-o-l-b-e-r-m-o-o-r.</p> <p>9 Q. How long were you employed there?</p> <p>10 A. From 2007 till 2015, I think.</p> <p>11 Q. Have you ever been employed with an employer in the</p> <p>12 United States prior to Teupen?</p> <p>13 A. No, not directly. I've been working for U.S.</p> <p>14 companies in my function as CFO, CEO, whatever, so</p> <p>15 I had already the function as a CEO in the U.S.,</p> <p>16 but I was not employed by the USA.</p> <p>17 Q. What companies were you employed with that had a</p> <p>18 U.S. entity?</p> <p>19 A. Rofa.</p> <p>20 Q. Anything else?</p> <p>21 A. No. It was Rofa Conveyor Technology in Greer,</p> <p>22 South Carolina.</p> <p>23 Q. Any other U.S. presence for other employees?</p> <p>24 A. The same employer, a company in Ohio.</p> <p>25 Q. For Rofa?</p> <p style="text-align: right;">www.thompsonmi</p> <p style="text-align: right;">1</p> <p style="text-align: right;">1</p> <p style="text-align: right;">s.com</p>	<p>Page 84</p> <p style="text-align: right;">MARTIN BORUTTA 84</p> <p>1 A. No.</p> <p>2 Q. So did you come to the U.S. on a student via?</p> <p>3 A. I think so, yes.</p> <p>4 Q. Were you a full-time student at Katz?</p> <p>5 A. It was only for three months, I think. It was only</p> <p>6 part of the MBA program.</p> <p>7 Q. Have you had any type of human resources training</p> <p>8 regarding U.S. laws?</p> <p>9 A. No.</p> <p>10 Q. Was Insperity in place when you took over for</p> <p>11 Mr. Kesser?</p> <p>12 A. I think, yes. Mr. -- yeah. It was in place when I</p> <p>13 took over from Mr. Kesser.</p> <p>14 Q. Why did you decide to end the relationship with</p> <p>15 Insperity?</p> <p>16 A. Because of the high costs of Insperity.</p> <p>17 Q. And you didn't replace Insperity with any type of</p> <p>18 HR function, is that correct?</p> <p>19 A. That is correct.</p> <p>20 Q. Did you distribute or communicate in any way any</p> <p>21 company policies after you ceased having a</p> <p>22 relationship with Insperity regarding how to</p> <p>23 complain about discrimination or harassment?</p> <p>24 A. I think we have the labor law process in the</p> <p>25 company as we're required to. That's what we do,</p> <p style="text-align: right;">www.thompsonmi</p> <p style="text-align: right;">1</p> <p style="text-align: right;">1</p> <p style="text-align: right;">s.com</p>
<p>Page 83</p> <p style="text-align: right;">MARTIN BORUTTA 83</p> <p>1 A. For Rofa.</p> <p>2 Q. Did you grow up in Germany?</p> <p>3 A. Yes.</p> <p>4 Q. Where?</p> <p>5 A. Southern Germany, Bavaria.</p> <p>6 Q. Spell it, please.</p> <p>7 A. In the state Bavaria, B-a-v-a-r-i-a.</p> <p>8 Q. Do you have a college degree?</p> <p>9 A. I have a university -- I'm -- how do you call it in</p> <p>10 the United States? I'm an engineer, university of</p> <p>11 applied sciences. I'm an automotive engineer.</p> <p>12 Q. I didn't hear that last part. A what type of</p> <p>13 engineer?</p> <p>14 A. I'm an automotive engineer and I have an MBA.</p> <p>15 Q. Where is your MBA from?</p> <p>16 A. Germany and United States.</p> <p>17 Q. Where did you go to school in the United States?</p> <p>18 A. Katz Business School in Pittsburgh.</p> <p>19 Q. Spell that again.</p> <p>20 A. Katz, K-a-t-z.</p> <p>21 Q. When did you attend Katz?</p> <p>22 A. I think in 2000. I don't recall. I think it was</p> <p>23 in 2000. Couple of years ago.</p> <p>24 Q. Were you working in the U.S. at the time that you</p> <p>25 were attending school?</p> <p style="text-align: right;">www.thompsonmi</p> <p style="text-align: right;">1</p> <p style="text-align: right;">1</p> <p style="text-align: right;">s.com</p>	<p>Page 85</p> <p style="text-align: right;">MARTIN BORUTTA 85</p> <p>1 yeah. We display that.</p> <p>2 Q. When you say labor laws are you talking about the</p> <p>3 poster that you get from the Department of Labor?</p> <p>4 A. I think so, yes.</p> <p>5 Q. Have you produced a copy of all of the company's</p> <p>6 employment policies in this case?</p> <p>7 A. I -- you got to specify that. I don't know what</p> <p>8 you're talking about.</p> <p>9 Q. Well, once you stopped -- Insperity was the</p> <p>10 outsourced human resources, correct?</p> <p>11 A. Maybe. I don't know exactly what Insperity did and</p> <p>12 what they were hired for because it was before my</p> <p>13 time.</p> <p>14 Q. So you just ended the relationship not knowing what</p> <p>15 they did because of the cost, correct?</p> <p>16 MR. KLASS: Object to the form.</p> <p>17 A. Yes, because are not having companies like</p> <p>18 Insperity in Germany. They are not used there.</p> <p>19 Q. (By Ms. Gessner) And you didn't hire a human</p> <p>20 resources person after you ended the relationship</p> <p>21 with Insperity, correct?</p> <p>22 A. No, I did not.</p> <p>23 Q. Did anyone under your supervision hire someone to</p> <p>24 serve as a human resources representative for</p> <p>25 Teupen in the U.S.?</p> <p style="text-align: right;">www.thompsonmi</p> <p style="text-align: right;">1</p> <p style="text-align: right;">1</p> <p style="text-align: right;">s.com</p>

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<p>Sheet 23 Page 86</p> <p style="text-align: right;">MARTIN BORUTTA 86</p> <p>1 A. No. It's a 13-people company. We do not have an 2 HR department.</p> <p>3 Q. How do employees know where they should go to make 4 a complaint if they're being discriminated against 5 at Teupen?</p> <p>6 A. They're informed -- they're informed by their 7 supervisor.</p> <p>8 Q. How do they know, if they have a complaint about 9 their supervisor, who to go to?</p> <p>10 MR. KLASS: Object to the form.</p> <p>11 A. They know the chain of command, they know the 12 supervisor and they know the CEO because it's a 13- 13 people company.</p> <p>14 Q. (By Ms. Gessner) So an employee, you're saying like 15 Ms. Acevedo, her job was to come to you to complain 16 about discrimination and harassment just like she 17 did, at least on December 20?</p> <p>18 MR. KLASS: Object to the form.</p> <p>19 A. She did not complain. You're trying to -- putting 20 words in my mouth I never said, so please rephrase 21 your question. I cannot answer the question 22 because it's not correct.</p> <p>23 Q. (By Ms. Gessner) Mr. Borutta, you've already 24 testified Ms. Acevedo complained to you about 25 Mr. Liebl and Ms. Molyn at least as early as www.thompsonmi</p> <p style="text-align: right;">1 1 s.com</p>	<p>Page 88</p> <p style="text-align: right;">MARTIN BORUTTA 88</p> <p>1 people. That's very strange for me. Sorry to say 2 that today, but I cannot follow up, and she did not 3 understand what he was saying because she's not 4 speaking German, but after that she wants to try to 5 say she was offended by him and mistreated? Sorry, 6 no. And she never, ever had any issue. Instead, 7 the only one I told you before, when she told me 8 December 20 that she doesn't like them and doesn't 9 want to work with them, and that's not a complaint 10 about harassment or anything else. That's -- I 11 told you in the beginning everything in that case 12 is frivolous. That's just made up and that's all I 13 have to say.</p> <p>14 Q. (By Ms. Gessner) Well, Mr. Borutta, isn't it true 15 that Ms. Acevedo told you that she did not like 16 working with them because of the way they were 17 treating her?</p> <p>18 MR. KLASS: Object to the form.</p> <p>19 A. That is not true. I just told you.</p> <p>20 Q. (By Ms. Gessner) And no one else was present for 21 this conversation between you and Ms. Acevedo, 22 correct?</p> <p>23 MR. KLASS: Object to the form.</p> <p>24 A. No, no one else was present.</p> <p>25 Q. (By Ms. Gessner) Excuse me? www.thompsonmi</p> <p style="text-align: right;">1 1 s.com</p>
<p>Page 87</p> <p style="text-align: right;">MARTIN BORUTTA 87</p> <p>1 December 20, correct?</p> <p>2 MR. KLASS: Object to the form.</p> <p>3 A. I testified and I told you that Ms. Acevedo said 4 she doesn't like to work with Mr. Liebl and 5 Ms. Molyn and she doesn't like them. That's all I 6 said before and that's all I have to say today to 7 you.</p> <p>8 Q. (By Ms. Gessner) And if her testimony --</p> <p>9 A. The question was different. Try again.</p> <p>10 Q. Are you finished?</p> <p>11 A. Now I am.</p> <p>12 Q. Mr. Borutta, if Ms. Acevedo's testimony is 13 different, her recollection of her conversation 14 with you is that she expressly told you she was 15 being treated and treated poorly by Mr. Liebl and 16 discriminated against, it would be your word 17 against hers; no one else heard this conversation, 18 correct?</p> <p>19 MR. KLASS: Object to the form.</p> <p>20 A. If I -- if I recall correctly, that's one of the 21 things I recall from yesterday that I found very 22 interesting, that Ms. Acevedo said that Mr. Liebl 23 was arrogant and he was talking German and then he 24 felt -- she felt offended. It's very interesting 25 that when I'm talking German then I am harassing www.thompsonmi</p> <p style="text-align: right;">1 1 s.com</p>	<p>Page 89</p> <p style="text-align: right;">MARTIN BORUTTA 89</p> <p>1 A. No one else was present.</p> <p>2 Q. No one else heard this conversation other than you 3 and Ms. Acevedo; is that accurate?</p> <p>4 MR. KLASS: Object to the form.</p> <p>5 A. That is accurate.</p> <p>6 Q. (By Ms. Gessner) And if she says the conversation 7 is completely different, it's your word against 8 hers, correct?</p> <p>9 MR. KLASS: Object to the form.</p> <p>10 A. I think so, yes.</p> <p>11 Q. (By Ms. Gessner) And, Mr. Borutta, again we've been 12 through this, but just so we have a clear record, 13 once Ms. Acevedo complained to you that you just 14 testified about, you didn't do anything to 15 investigate her claims, did you?</p> <p>16 MR. KLASS: Object to the form.</p> <p>17 A. Ms. Gessner, that is a question of understanding 18 whether somebody complains or just tells you I 19 don't want to do something. So I didn't understand 20 that in any way as a claim and she didn't express a 21 claim and she never sent me any -- never sent me 22 anything in written -- any statement that she feels 23 mistreated. That was a two- or three-minute 24 conversation on December 20 in my office. That's 25 -- I told you before. www.thompsonmi</p> <p style="text-align: right;">1 1 s.com</p>

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<p>Sheet 24 Page 90</p> <p style="text-align: right;">MARTIN BORUTTA 90</p> <p>1 Q. (By Ms. Gessner) Well, was it in your office or was 2 it at the Christmas party? 3 A. It was at -- during the Christmas party in my 4 office. 5 Q. And no one else was present in your office other 6 than you and Ms. Acevedo, correct? 7 A. No. You heard from Ms. Acevedo that I had my 8 antisocial day, so social day, that's what she 9 testified yesterday. Very funny, because I am not 10 antisocial. I had a conversation with her and that 11 was a short conversation. 12 Q. You didn't record this conversation, did you? 13 A. I normally have witnesses. Not that day. No, I 14 did not record the conversation. 15 Q. And again, you didn't do anything to follow up and 16 determine or find out why Ms. Acevedo had 17 complained to you about how she was being treated 18 by Mr. Liebl and Ms. Molyn, correct? 19 MR. KLASS: Object to the form. 20 A. And again, Ms. Gessner -- 21 Q. (By Ms. Gessner) Mr. Borutta, Mr. Borutta, you are 22 wasting time that we're going to have to add to the 23 end of this deposition. You're being 24 nonresponsive. Did you do anything to follow up 25 with Ms. Acevedo about the complaint she made to www.thompsonmi 1 1 s.com</p>	<p>Page 92</p> <p style="text-align: right;">MARTIN BORUTTA 92</p> <p>1 black employees in the United States? 2 A. No. 3 Q. And since you took over for Mr. Kesser have you 4 hired a black employee in the United States? 5 A. No. 6 Q. And how is it that you know when someone is black? 7 A. I guess when I see the color of the skin that I can 8 imagine that it's black people. Is that correct? 9 Q. Just like you can tell with the color of the skin 10 if someone is of descent they have darker skin and 11 darker hair just like Ms. Acevedo, correct? 12 MR. KLASS: Object to the form. 13 A. No, that is not correct. I disagree with that. 14 Q. (By Ms. Gessner) So again it's your testimony that 15 you don't know whether you've hired anyone of Latin 16 descent in the U.S. before, correct? 17 MR. KLASS: Object to the form. 18 A. That is correct. Yes. 19 Q. (By Ms. Gessner) Is everyone who currently works -- 20 of the 14, 13, 14 people who work for Teupen today, 21 is everyone white? 22 MR. KLASS: Object to the form. 23 A. I don't know. 24 Q. (By Ms. Gessner) Have you seen all 13 or 14 25 employees who work in the U.S. under your www.thompsonmi 1 1 s.com</p>
<p>Page 91</p> <p style="text-align: right;">MARTIN BORUTTA 91</p> <p>1 you on that day? 2 MR. KLASS: Object to the form. 3 A. She did not made a complaint of treatment, so -- 4 Q. (By Ms. Gessner) Mr. Borutta, not my -- that wasn't 5 my question. Did you have any other conversations 6 at all with Ms. Acevedo about what she told you on 7 December 20? 8 MR. KLASS: Object to the form. 9 A. No, I did not, because Ms. Acevedo was on vacation 10 from December 23 to 20 -- I think 30 was the first 11 workday for her. 12 Q. (By Ms. Gessner) On December 30, did you have a 13 conversation with Ms. Acevedo about the complaint 14 she made had to you about Mr. Liebl and Ms. Molyn? 15 A. No, I did not, because I didn't see her. 16 Q. Have you ever hired in the United States an 17 employee who is Latino? 18 A. I don't know. 19 Q. Have you ever hired an employee who is black? 20 A. I had black employees. 21 Q. Who are the black employees that you have currently 22 employed? 23 A. In the company in Ohio and one in the company in 24 South Carolina, but that's a couple of years ago. 25 Q. Currently employed with Teupen, do you have any www.thompsonmi 1 1 s.com</p>	<p>Page 93</p> <p style="text-align: right;">MARTIN BORUTTA 93</p> <p>1 supervision? 2 A. I see them from time to time. In operational they 3 are working under Mr. Rogers' supervision. 4 Q. During your time to time seeing these 13 to 14 5 employees, have you ever seen anyone who wasn't 6 white that currently works there? 7 MR. KLASS: Object to the form. 8 A. I don't know. 9 Q. (By Ms. Gessner) You don't know whether you have 10 any employee who is not white? 11 MR. KLASS: Object to the form. 12 A. No, because I cannot follow your description of 13 nonwhite. I don't know. 14 Q. (By Ms. Gessner) Well, do you know the difference 15 between someone who is Caucasian and white versus 16 someone is dark skinned and either black or brown? 17 MR. KLASS: Object to the form. 18 A. I think it's easy to see a difference between black 19 and white. Anything else I cannot tell you. 20 That's why I don't understand why you're asking me 21 that. That doesn't matter. No, I don't know. 22 Q. (By Ms. Gessner) Do you have anyone who is employed 23 currently with Teupen who has a last name that 24 sounds as if it perhaps could be Latino? 25 MR. KLASS: Object to the form. www.thompsonmi 1 1 s.com</p>

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<p>Sheet 25 Page 94</p> <p style="text-align: right;">MARTIN BORUTTA 94</p> <p>1 Q. (By Ms. Gessner) Like Ms. Acevedo.</p> <p>2 A. I don't know.</p> <p>3 Q. And you haven't produced an org chart for us to be</p> <p>4 able to go through and determine; is that accurate?</p> <p>5 MR. KLASS: Object to the form.</p> <p>6 A. No, I think that's not accurate because the org</p> <p>7 chart doesn't say nothing about people. It says</p> <p>8 something about the organization. You're talking</p> <p>9 about two different things.</p> <p>10 Q. (By Ms. Gessner) Is it your testimony, Mr. Borutta,</p> <p>11 that that org chart doesn't have people's names on</p> <p>12 it?</p> <p>13 MR. KLASS: Object to the form.</p> <p>14 A. If you'd let me finish -- if you would let me</p> <p>15 finish I could explain what I was talking about, so</p> <p>16 please let me finish. An org chart is an org chart</p> <p>17 that shows organization. I provided personal</p> <p>18 information of all people working with names since</p> <p>19 been there at Teupen and whether they are full-time</p> <p>20 employed or not. That's what I provided, and</p> <p>21 anything else, I don't know what you're asking me.</p> <p>22 Q. (By Ms. Gessner) Do you not understand my question,</p> <p>23 Mr. Borutta?</p> <p>24 A. I think you did not understand my answer. Maybe</p> <p>25 you'd better ask again.</p> <p style="text-align: right;">www.thompsonmi 1 1 s.com</p>	<p>Page 96</p> <p style="text-align: right;">MARTIN BORUTTA 96</p> <p>1 Q. (By Ms. Gessner) When do you recall last reviewing</p> <p>2 discovery responses in this case?</p> <p>3 MR. KLASS: Object to the form.</p> <p>4 A. I don't remember, Ms. Gessner.</p> <p>5 Q. (By Ms. Gessner) Did you review discovery responses</p> <p>6 last week?</p> <p>7 MR. KLASS: Object to the form.</p> <p>8 Q. (By Ms. Gessner) Counsel is talking over you, so</p> <p>9 please repeat your question --</p> <p>10 A. I don't --</p> <p>11 Q. -- I mean, sorry -- please repeat your answer.</p> <p>12 A. I don't remember.</p> <p>13 Q. And you don't remember whether you were provided a</p> <p>14 copy of the court's order requiring you to give us</p> <p>15 documents in this case, correct?</p> <p>16 MR. KLASS: Object to the form.</p> <p>17 A. I don't remember.</p> <p>18 Q. (By Ms. Gessner) Do all employees at Teupen have</p> <p>19 employment agreements?</p> <p>20 MR. KLASS: Object to the form.</p> <p>21 A. Which Teupen you're talking about?</p> <p>22 Q. (By Ms. Gessner) Teupen North America.</p> <p>23 A. Okay. No.</p> <p>24 Q. Which employees under your supervision right now</p> <p>25 currently have employment agreements?</p> <p style="text-align: right;">www.thompsonmi 1 1 s.com</p>
<p>Page 95</p> <p style="text-align: right;">MARTIN BORUTTA 95</p> <p>1 Q. No, I understood your answer. It was</p> <p>2 nonresponsive. I'm asking if you didn't understand</p> <p>3 my question. You didn't provide us a list of an</p> <p>4 org chart reflecting each person's position and</p> <p>5 their name, have you?</p> <p>6 MR. KLASS: Object to the form.</p> <p>7 A. I don't know whether you were provided it. I</p> <p>8 provided it, so that's why I cannot answer your</p> <p>9 question.</p> <p>10 Q. (By Ms. Gessner) So you don't know what your</p> <p>11 lawyers have given us and what they haven't?</p> <p>12 MR. KLASS: Object to the form.</p> <p>13 A. No, because I'm not a lawyer.</p> <p>14 Q. (By Ms. Gessner) But you are the person who hired</p> <p>15 Fisher Phillips to represent Teupen, correct?</p> <p>16 A. That's correct.</p> <p>17 Q. And it's your testimony they send us things and you</p> <p>18 don't have a clue what they send or don't send?</p> <p>19 MR. KLASS: Object to the form.</p> <p>20 A. I send my information to my lawyer and my lawyer</p> <p>21 will send you whatever he has to send you.</p> <p>22 Q. (By Ms. Gessner) Did you review the discovery</p> <p>23 responses before that were served in this case?</p> <p>24 MR. KLASS: Object to the form.</p> <p>25 A. I think so. I don't remember.</p> <p style="text-align: right;">www.thompsonmi 1 1 s.com</p>	<p>Page 97</p> <p style="text-align: right;">MARTIN BORUTTA 97</p> <p>1 MR. KLASS: Object to the form.</p> <p>2 A. I think I -- it's only one person.</p> <p>3 Q. (By Ms. Gessner) Okay. Who is it?</p> <p>4 A. It's -- it's good you asked me. Patrick Blackburn.</p> <p>5 He's also the national sales manager. He's also</p> <p>6 since, I don't know, with Teupen, '16, '15. I</p> <p>7 don't know. He has one.</p> <p>8 Q. What's Patrick's last name again? Please spell it</p> <p>9 for the record.</p> <p>10 A. Blackburn, B-l-a-c-k, burn.</p> <p>11 Q. And what's Patrick's race?</p> <p>12 MR. KLASS: Object to the form.</p> <p>13 A. He's a white male.</p> <p>14 Q. (By Ms. Gessner) Is Morgan Elder a white woman?</p> <p>15 MR. KLASS: Object to the form.</p> <p>16 A. I don't know. I didn't hire her.</p> <p>17 Q. (By Ms. Gessner) Have you ever met her?</p> <p>18 A. I see her from time to time.</p> <p>19 Q. Is she white?</p> <p>20 MR. KLASS: Object to the form.</p> <p>21 A. I cannot tell you, Ms. Gessner. You're asking the</p> <p>22 same thing again.</p> <p>23 Q. (By Ms. Gessner) Does she have black skin?</p> <p>24 A. She does not have black skin. That's what I --</p> <p>25 Q. Does she have brown skin?</p> <p style="text-align: right;">www.thompsonmi 1 1 s.com</p>

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<p>Sheet 26 Page 98</p> <p style="text-align: right;">MARTIN BORUTTA 98</p> <p>1 MR. KLASS: Object to the form.</p> <p>2 A. I don't know.</p> <p>3 Q. (By Ms. Gessner) So it's your testimony you don't</p> <p>4 know what color her skin is?</p> <p>5 A. Yes, that's my testimony.</p> <p>6 Q. Are you colorblind, Mr. Borutta?</p> <p>7 A. No, but I'm not really looking very deep in colors</p> <p>8 of my employees because I'm running a company with</p> <p>9 200 people, worldwide business, and I don't care</p> <p>10 which color your skin is.</p> <p>11 Q. And, Mr. Borutta, you keep making me distinguish</p> <p>12 between, so you do consider yourself as having all</p> <p>13 of the employees under your watch, right? So all</p> <p>14 of Germany and all of U.S., it's all under your</p> <p>15 watch, correct?</p> <p>16 MR. KLASS: Object to the form.</p> <p>17 A. Ms. Gessner, however you want to call under your</p> <p>18 watch, I take -- I always take a decision. That</p> <p>19 doesn't mean that I know every employee.</p> <p>20 Q. (By Ms. Gessner) But you just said a minute ago, at</p> <p>21 least in the U.S., you don't have human resources</p> <p>22 and you say all employees know that if they have a</p> <p>23 problem they're supposed to come to the CEO; is</p> <p>24 that accurate?</p> <p>25 MR. KLASS: Object to the form.</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>	<p>Page 100</p> <p style="text-align: right;">MARTIN BORUTTA 100</p> <p>1 Q. Anything else?</p> <p>2 A. There was not enough time to talk more about Las</p> <p>3 Vegas and my flight.</p> <p>4 Q. Are you going to Las Vegas on vacation?</p> <p>5 A. No, exhibition.</p> <p>6 Q. What kind of exhibition?</p> <p>7 A. American Rental Association.</p> <p>8 MR. KLASS: Before we go further I</p> <p>9 would just like to note that we'd like to</p> <p>10 take a lunch break at around 12:45 if</p> <p>11 that's okay.</p> <p>12 MS. GESSNER: Sure, that's fine.</p> <p>13 How long do you want?</p> <p>14 MR. KLASS: I think 45 minutes</p> <p>15 worked well yesterday, so we'd ask for</p> <p>16 that again today.</p> <p>17 MS. GESSNER: Sure. No problem.</p> <p>18 Just remind me if we get close and I</p> <p>19 haven't stopped yet because I don't tend</p> <p>20 to look at the clock.</p> <p>21 MR. KLASS: Okay. Thank you.</p> <p>22 Q. (By Ms. Gessner) Mr. Borutta, I'm going to show you</p> <p>23 a document. Is there a document on your screen,</p> <p>24 Mr. Borutta?</p> <p>25 A. There's a document on my screen.</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>
<p>Page 99</p> <p style="text-align: right;">MARTIN BORUTTA 99</p> <p>1 A. That's accurate.</p> <p>2 Q. (By Ms. Gessner) And you are the CEO, correct?</p> <p>3 A. Correct.</p> <p>4 MR. KLASS: I'd like to take a</p> <p>5 break.</p> <p>6 MS. GESSNER: Excuse me?</p> <p>7 MR. KLASS: I'd like to take a</p> <p>8 break.</p> <p>9 MS. GESSNER: Sure. How long do you</p> <p>10 need? Ten minutes.</p> <p>11 MR. KLASS: Yeah, 10 minutes. Thank</p> <p>12 you.</p> <p>13 MS. GESSNER: Off the record.</p> <p>14 (RECESS)</p> <p>15 Q. (By Ms. Gessner) We're back on the record after a</p> <p>16 short break requested by your counsel. Did you</p> <p>17 speak with Mr. Klass during the break?</p> <p>18 A. Yes, I spoke with Mr. Klass during the break.</p> <p>19 Q. What did you speak with Mr. Klass about?</p> <p>20 A. Strictly confidential. No, I talked to him about</p> <p>21 my flight to Las Vegas, my next exhibition next</p> <p>22 week.</p> <p>23 Q. Anything else?</p> <p>24 A. Yeah, that I love Las Vegas. It's pretty warm</p> <p>25 there.</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>	<p>Page 101</p> <p style="text-align: right;">MARTIN BORUTTA 101</p> <p>1 Q. It's a one-page document. It has been introduced</p> <p>2 by Teupen in this case, Bates label 2Teupen0003.</p> <p>3 Have you seen this document before, Mr. Borutta?</p> <p>4 A. Yes, I think so.</p> <p>5 Q. When did you last see this document?</p> <p>6 A. I don't remember.</p> <p>7 Q. Did you request this document be prepared by</p> <p>8 Insperity on May 18, 2021?</p> <p>9 A. I don't remember. Maybe. I don't remember.</p> <p>10 Q. Did you contact Insperity about this case in order</p> <p>11 to get this information?</p> <p>12 A. I contacted Insperity to get some other</p> <p>13 information. That's what I remember.</p> <p>14 Q. So you have seen this as early as May 18, 2021,</p> <p>15 correct?</p> <p>16 MR. KLASS: Object to the form.</p> <p>17 A. I don't remember.</p> <p>18 Q. (By Ms. Gessner) Did you review this document in</p> <p>19 preparation for your deposition today?</p> <p>20 A. No.</p> <p>21 Q. Since we had some difficulty remembering who people</p> <p>22 are and what their race is and their different</p> <p>23 positions, does this document refresh your</p> <p>24 recollection?</p> <p>25 A. It does not because I don't know the races of</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>

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<p>Sheet 27 Page 102</p> <p style="text-align: right;">MARTIN BORUTTA 102</p> <p>1 people because I told you before.</p> <p>2 Q. Do you see in the far right corner under the word</p> <p>3 race the race listed for each employee?</p> <p>4 A. Yeah. There's a column.</p> <p>5 Q. And do you see that Ms. Acevedo is referenced as</p> <p>6 being Hispanic or Latino?</p> <p>7 A. I can see that.</p> <p>8 Q. And you see Jason Rogers -- I'm sorry -- yeah,</p> <p>9 Jason Rogers is listed as American Indian?</p> <p>10 A. I see that listed, yes.</p> <p>11 Q. And you see that Cassandra Traveso is also listed</p> <p>12 as Hispanic or Latino?</p> <p>13 A. I see that listed.</p> <p>14 Q. And everyone else is white, correct?</p> <p>15 A. On the list?</p> <p>16 Q. Yeah, on the list in front of you that's Exhibit 4</p> <p>17 to your deposition, everyone else is white,</p> <p>18 correct?</p> <p>19 A. Correct.</p> <p>20 Q. Who was Cassandra Traveso?</p> <p>21 A. She was the former marketing associate. I met her,</p> <p>22 I don't know, two times, three times. I don't</p> <p>23 remember.</p> <p>24 Q. Did you terminate her?</p> <p>25 A. No.</p> <p style="text-align: right;">www.thompsonmi</p> <p style="text-align: right;">1</p> <p style="text-align: right;">1</p> <p style="text-align: right;">s.com</p>	<p>Page 104</p> <p style="text-align: right;">MARTIN BORUTTA 104</p> <p>1 A. I think so, yes.</p> <p>2 Q. And it's your testimony that you had no knowledge</p> <p>3 of Ms. Traveso's complaints?</p> <p>4 A. Yes, I had no knowledge of any complaint. That is</p> <p>5 correct.</p> <p>6 Q. And you mentioned Patrick Blackburn. Isn't it true</p> <p>7 that Ms. Traveso was dating Mr. Blackburn and you</p> <p>8 were aware of that?</p> <p>9 A. Maybe.</p> <p>10 Q. Is that a maybe you were aware?</p> <p>11 A. I think they had an apartment together, but I don't</p> <p>12 know. I don't ask people about their private life.</p> <p>13 That's not my business.</p> <p>14 Q. How is it that you think they had an apartment</p> <p>15 together?</p> <p>16 A. Because I think Patrick told me once.</p> <p>17 Q. Do you socialize with some employees outside of</p> <p>18 work?</p> <p>19 A. I do not.</p> <p>20 Q. You never socialized with Mr. Blackburn outside of</p> <p>21 work?</p> <p>22 A. Just when we are outside for an exhibition, for</p> <p>23 example, but then it's work-related.</p> <p>24 Q. Is Mr. Blackburn going to Vegas with you?</p> <p>25 A. He's on the sales team. Yes, he is going. Yes.</p> <p style="text-align: right;">www.thompsonmi</p> <p style="text-align: right;">1</p> <p style="text-align: right;">1</p> <p style="text-align: right;">s.com</p>
<p>Page 103</p> <p style="text-align: right;">MARTIN BORUTTA 103</p> <p>1 Q. Do you know why she left Teupen?</p> <p>2 A. No, I don't know.</p> <p>3 Q. Are you aware that Ms. Traveso had complained about</p> <p>4 the way she was being treated at Teupen?</p> <p>5 A. No, I do not.</p> <p>6 Q. You're not aware of that?</p> <p>7 A. No, I am not aware.</p> <p>8 Q. Are you aware that she had complained about how she</p> <p>9 was being treated because she is Latino?</p> <p>10 A. As I said before, I am not aware of any claims for</p> <p>11 her, so how should I be aware of that claim?</p> <p>12 Q. Are you aware that Ms. Traveso had complained</p> <p>13 specifically about you smoking in the building and</p> <p>14 affecting her health?</p> <p>15 A. No, I am not aware of that.</p> <p>16 Q. No one ever investigated her claims, is that</p> <p>17 correct?</p> <p>18 MR. KLASS: Object to the form.</p> <p>19 A. I don't know because I'm not aware of her claim, so</p> <p>20 I cannot tell you whether it was investigated or</p> <p>21 not and whether there were claims or not. I don't</p> <p>22 know the claim, so you can tell me anything. I</p> <p>23 don't know.</p> <p>24 Q. (By Ms. Gessner) Were you the CEO of Teupen North</p> <p>25 America on September 25, 2019?</p> <p style="text-align: right;">www.thompsonmi</p> <p style="text-align: right;">1</p> <p style="text-align: right;">1</p> <p style="text-align: right;">s.com</p>	<p>Page 105</p> <p style="text-align: right;">MARTIN BORUTTA 105</p> <p>1 Q. Does he still live with Ms. Traveso?</p> <p>2 MR. KLASS: Object to the form.</p> <p>3 A. I don't know.</p> <p>4 Q. (By Ms. Gessner) When is the last time you saw</p> <p>5 Ms. Traveso?</p> <p>6 A. I don't know. Mid of '19. I don't remember.</p> <p>7 Q. Take a look. All of the folks listed on this</p> <p>8 Exhibit 4, it indicates that their term date was</p> <p>9 12/31/2019. Is that accurate?</p> <p>10 MR. KLASS: Object to the form.</p> <p>11 A. No, but I -- I didn't check this. It was produced</p> <p>12 by Insperity, so no, it's not right. I think that</p> <p>13 because they renewed the policy the next year or</p> <p>14 because we cancelled the policy, that's why they</p> <p>15 were terminated at Insperity may be the reason. I</p> <p>16 don't know.</p> <p>17 Q. (By Ms. Gessner) Take a look at this list, and my</p> <p>18 question -- I have two questions for you. The</p> <p>19 first question is, who on this list did you</p> <p>20 terminate, and the second question will be, when</p> <p>21 and why?</p> <p>22 A. Ms. Acevedo, beginning of 2020, lack of</p> <p>23 performance. Mr. Ralph Baer, I don't remember</p> <p>24 when, mid of '19, lack of performance, damages to</p> <p>25 the company. Mr. Robert Blackburn in 20 -- this</p> <p style="text-align: right;">www.thompsonmi</p> <p style="text-align: right;">1</p> <p style="text-align: right;">1</p> <p style="text-align: right;">s.com</p>

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<p>Sheet 28 Page 106</p> <p style="text-align: right;">MARTIN BORUTTA 106</p> <p>1 year, I think, so -- lack of performance.</p> <p>2 Mr. Christopher Collins, April or May 2020, lack of</p> <p>3 performance. I do not know who Steven Fore is.</p> <p>4 That was before my time. Misty Goins, lack of</p> <p>5 performance. Mr. David Kesser, I not allowed to</p> <p>6 talk about that. It's confidential, but he was</p> <p>7 terminated by me. Mr. Andreas Liebl, lack of</p> <p>8 performance, mid of '20. Mr. Benjamin Taft, lack</p> <p>9 of performance, mid of '19. Mr. Trainer, it's also</p> <p>10 confidential. Made a severance agreement, mid '19,</p> <p>11 lack of performance. I think Mr. Walbridge left on</p> <p>12 himself. He was for a couple of months. I don't</p> <p>13 know. He was in training. And Mr. Bradley Welch,</p> <p>14 that was in summer last year, I think, so lack of</p> <p>15 performance. He was a termination.</p> <p>16 Q. So of those people that you named that you</p> <p>17 terminated, tell me, other than Ms. Acevedo, anyone</p> <p>18 who had complained to you about how they were being</p> <p>19 treated before you terminated them.</p> <p>20 A. As I said before, there was not a single complaint</p> <p>21 regarding treatment as I was aware of from nobody.</p> <p>22 Q. Other than Ms. Acevedo, correct?</p> <p>23 A. Yeah, and she did not complain how she was treated.</p> <p>24 I told you that before. Don't try to put my words.</p> <p>25 Q. Ms. Acevedo complained and then was terminated.</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>	<p>Page 108</p> <p style="text-align: right;">MARTIN BORUTTA 108</p> <p>1 question.</p> <p>2 Q. Mr. Liebl was a friend prior to you bringing him on</p> <p>3 at Teupen, correct?</p> <p>4 A. That's the question? How do you define friend? So</p> <p>5 that's fine. Just ask about Mr. Liebl, not whoever</p> <p>6 your friends are.</p> <p>7 Q. Were you friends -- were you social acquaintances</p> <p>8 with Mr. Liebl before you hired him?</p> <p>9 A. In former times.</p> <p>10 Q. And when were you friends with Mr. Liebl before you</p> <p>11 hired him?</p> <p>12 A. 2015. I met him last in 2015.</p> <p>13 Q. Where did you --</p> <p>14 A. I saw before I hired him.</p> <p>15 Q. I'm having a little bit of a tough time hearing</p> <p>16 you, so I'd ask you to speak and maybe lean</p> <p>17 forward.</p> <p>18 A. It was the last -- it was the last -- it was the</p> <p>19 time I met him during my former job, so --</p> <p>20 Q. How is it that you came to meet Mr. Liebl during</p> <p>21 your former job?</p> <p>22 A. He was an employee.</p> <p>23 Q. What was the name of that company again?</p> <p>24 A. Rofa.</p> <p>25 Q. So you worked with Mr. Liebl at Rofa, correct?</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>
<p>Page 107</p> <p style="text-align: right;">MARTIN BORUTTA 107</p> <p>1 All the people you just listed, none of those</p> <p>2 people had made any prior complaints, is that</p> <p>3 correct?</p> <p>4 MR. KLASS: Object to the form.</p> <p>5 A. No, that's not correct.</p> <p>6 Q. (By Ms. Gessner) And Ms. Acevedo, you had no</p> <p>7 performance problems whatsoever prior to Mr. Liebl</p> <p>8 being brought into Teupen, correct?</p> <p>9 MR. KLASS: Object to the form.</p> <p>10 A. No, that's not correct.</p> <p>11 Q. (By Ms. Gessner) Tell me every performance issue</p> <p>12 that Ms. Acevedo had prior to bringing in your</p> <p>13 friend Mr. Liebl.</p> <p>14 MR. KLASS: Object to the form.</p> <p>15 A. You've got to rephrase your question, knowing that</p> <p>16 Mr. Liebl is a friend of mine.</p> <p>17 Q. (By Ms. Gessner) That Mr. Liebl is not a friend of</p> <p>18 yours?</p> <p>19 A. I cannot answer the question because maybe the</p> <p>20 content is wrong, so please ask the question again.</p> <p>21 Q. Tell me what part of the question you do not</p> <p>22 understand, Mr. Borutta.</p> <p>23 A. You said I have to answer a question that I brought</p> <p>24 in a friend of mine. You can ask me about</p> <p>25 Mr. Liebl, yes, and then I will answer your</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>	<p>Page 109</p> <p style="text-align: right;">MARTIN BORUTTA 109</p> <p>1 A. That's correct.</p> <p>2 Q. In the United States or in Germany?</p> <p>3 A. In the United States.</p> <p>4 Q. And how is it that you decided to hire Mr. Liebl to</p> <p>5 come to work for you at Teupen?</p> <p>6 A. I needed a person that I can trust because I had to</p> <p>7 fire some people I couldn't trust and I didn't know</p> <p>8 whether I can trust Ms. Acevedo.</p> <p>9 Q. How is it -- why is it that you trusted Mr. Liebl?</p> <p>10 A. I know him from my -- from his former job and his</p> <p>11 former job duties. That's why I trusted Mr. Liebl.</p> <p>12 Q. I think a minute ago you said you fired Mr. Liebl</p> <p>13 because he wasn't doing his job, is that right?</p> <p>14 A. I fired him in 2020 from Teupen, but I did not fire</p> <p>15 him from Rofa, so you see the difference in</p> <p>16 between. It's a couple of years ago.</p> <p>17 Q. Well, what changed? You trusted him when you hired</p> <p>18 him at Teupen, but then at some point you didn't</p> <p>19 trust him enough, you fired him?</p> <p>20 A. He didn't perform. It didn't work out, so --</p> <p>21 Q. What exactly was Mr. Liebl not doing that you</p> <p>22 thought he should be that caused his termination?</p> <p>23 A. He did not fulfill the role as he should fulfill</p> <p>24 his role, so --</p> <p>25 Q. What was his role?</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>

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<p>Sheet 29 Page 110</p> <p style="text-align: right;">MARTIN BORUTTA 110</p> <p>1 A. Operations manager.</p> <p>2 Q. What is it that he should have been doing?</p> <p>3 A. He should have been more technically involved in</p> <p>4 our product and understand our product and support</p> <p>5 customers and service. That's what his role would</p> <p>6 have been mainly.</p> <p>7 Q. And what is it that Mr. Liebl did that was not</p> <p>8 fulfilling those roles?</p> <p>9 A. All that what I just explained he did not fulfill.</p> <p>10 Q. And you think you paid him severance, correct?</p> <p>11 A. I think so.</p> <p>12 Q. Did he have a contract with Teupen at the time you</p> <p>13 terminated him?</p> <p>14 A. No.</p> <p>15 Q. Was he terminated for cause?</p> <p>16 MR. KLASS: Object to the form.</p> <p>17 A. No.</p> <p>18 Q. (By Ms. Gessner) Who is performing Mr. Liebl's job</p> <p>19 duties? Is that Mr. Jackson?</p> <p>20 A. Mr. Rogers.</p> <p>21 Q. Rogers?</p> <p>22 A. (Nods head.)</p> <p>23 Q. Where does Mr. Liebl work now? Do you know?</p> <p>24 A. I don't know.</p> <p>25 Q. So you knew Mr. Liebl before you brought him into</p> <p style="text-align: right;">www.thompsonmi</p> <p style="text-align: right;">1</p> <p style="text-align: right;">1</p> <p style="text-align: right;">s.com</p>	<p>Page 112</p> <p style="text-align: right;">MARTIN BORUTTA 112</p> <p>1 because of her -- the color of her skin and because</p> <p>2 of her heritage, what would you have done?</p> <p>3 MR. KLASS: Object to the form.</p> <p>4 A. Would have started an investigation about the</p> <p>5 mistreatment because that's what we normally do if</p> <p>6 somebody claims that.</p> <p>7 Q. (By Ms. Gessner) Walk me through the investigation</p> <p>8 process as to what you just testified you normally</p> <p>9 do.</p> <p>10 MR. KLASS: Object to the form.</p> <p>11 A. I can tell you what we do in Germany when we get a</p> <p>12 complaint, but in Germany we also have, how is it</p> <p>13 called, I think a workers committee. We talk to</p> <p>14 the people --</p> <p>15 Q. (By Ms. Gessner) Mr. Borutta, I want to know what</p> <p>16 you do in the United States, not Germany.</p> <p>17 A. Okay.</p> <p>18 Q. So what do you do in the United States at Teupen</p> <p>19 when an employee is complaining of discrimination</p> <p>20 or harassment?</p> <p>21 MR. KLASS: Object to the form.</p> <p>22 A. Yes. The protocol, they complain and do an</p> <p>23 interview with the parties that are involved and</p> <p>24 then we will discuss it and then we will find a</p> <p>25 way, whether we get to take legal actions or what</p> <p style="text-align: right;">www.thompsonmi</p> <p style="text-align: right;">1</p> <p style="text-align: right;">1</p> <p style="text-align: right;">s.com</p>
<p>Page 111</p> <p style="text-align: right;">MARTIN BORUTTA 111</p> <p>1 Teupen and you brought him in believing you could</p> <p>2 trust him more than anyone else, correct?</p> <p>3 A. That is correct.</p> <p>4 Q. And so when Ms. Acevedo complained to you about</p> <p>5 Mr. Liebl, who you knew before, you didn't believe</p> <p>6 her, did you?</p> <p>7 MR. KLASS: Object to the form.</p> <p>8 A. She didn't complain about Mr. Liebl. She said she</p> <p>9 doesn't like him and she doesn't want to work with</p> <p>10 him. That's not a complaint about him. That's an</p> <p>11 impression of her own emotions, not a complaint.</p> <p>12 Q. (By Ms. Gessner) But that's your word against hers,</p> <p>13 isn't it, because no one else was present for what</p> <p>14 she actually said to you?</p> <p>15 A. You can repeat that 10 times a day.</p> <p>16 MR. KLASS: Object to the form.</p> <p>17 A. Yes. If you want to repeat it 10 times, please do</p> <p>18 it. It will be always the same.</p> <p>19 Q. (By Ms. Gessner) I just want to make sure the</p> <p>20 record is clear each time you bring it up what your</p> <p>21 version of the facts are compared to what she says</p> <p>22 happened.</p> <p>23 A. Yeah.</p> <p>24 Q. If Ms. Acevedo had complained to you about the fact</p> <p>25 that she was being treated poorly by Mr. Liebl</p> <p style="text-align: right;">www.thompsonmi</p> <p style="text-align: right;">1</p> <p style="text-align: right;">1</p> <p style="text-align: right;">s.com</p>	<p>Page 113</p> <p style="text-align: right;">MARTIN BORUTTA 113</p> <p>1 we have to do.</p> <p>2 Q. (By Ms. Gessner) Who is we?</p> <p>3 A. We, that's me and the involved supervisor if a</p> <p>4 supervisor is involved. I don't do interviews on</p> <p>5 my own because I always want to have a witness.</p> <p>6 Q. So when an employee complains about their</p> <p>7 supervisor, you're saying part of your</p> <p>8 investigation process are you and that supervisor</p> <p>9 to conduct the investigation?</p> <p>10 MR. KLASS: Object to the form.</p> <p>11 A. Yeah. As that does not make sense, that supervisor</p> <p>12 will not be involved.</p> <p>13 Q. (By Ms. Gessner) So in the event that Ms. Acevedo</p> <p>14 was complaining about Mr. Liebl, who should have</p> <p>15 been involved in the investigation?</p> <p>16 MR. KLASS: Object to the form.</p> <p>17 A. Ms. Acevedo did not complain about Mr. Liebl, so</p> <p>18 nobody was involved in the investigation because</p> <p>19 she said she doesn't like him and she doesn't want</p> <p>20 to work with him.</p> <p>21 Q. (By Ms. Gessner) But, Mr. Borutta, for a clear</p> <p>22 record, that's your version of what was said during</p> <p>23 this meeting between you and Ms. Acevedo, correct?</p> <p>24 MR. KLASS: Object to form.</p> <p>25 A. Correct.</p> <p style="text-align: right;">www.thompsonmi</p> <p style="text-align: right;">1</p> <p style="text-align: right;">1</p> <p style="text-align: right;">s.com</p>

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<p>Sheet 30 Page 114</p> <p align="right">MARTIN BORUTTA 114</p> <p>1 Q. (By Ms. Gessner) You didn't tape record or audio 2 record or in any way record what was said during 3 this meeting, correct? 4 A. Correct. 5 Q. I'm asking you -- I'm trying to understand Teupen's 6 policy under you as the CEO. When an employee like 7 Ms. Acevedo complains to you, the CEO, about her 8 immediate supervisor, what would normally happen? 9 I know you think she didn't. Your testimony is it 10 didn't happen; her testimony is it did. I'm asking 11 you, if she complained to you, what should have 12 happened as far as part of Teupen's policy or 13 practice? 14 MR. KLASS: Object to the form. 15 A. If an employee at Teupen would claim that he's 16 being whatever, it's harassment or retaliation or 17 whatever, and people claim it at me and it is his 18 supervisor, there will be an investigation, 19 interviews with the employee and the supervisor, 20 and then I would have to think about what the next 21 steps are with legal counsel consultation. That's 22 what I would do. 23 Q. (By Ms. Gessner) And at no point did you do any 24 type of investigation regarding Ms. Acevedo's 25 complaints, correct? www.thompsonmi 1 1 s.com</p>	<p>Page 116</p> <p align="right">MARTIN BORUTTA 116</p> <p>1 did not. 2 Q. Well, why couldn't you talk to her on the phone? 3 A. That depends on the specific day, but the days 4 you're talking about following after December 20 I 5 was not available, so I did not talk to her. 6 Q. So you were not available, therefore you did not 7 make any effort to speak to Ms. Acevedo, correct? 8 A. She did not make any effort to talk to me. 9 Q. I didn't ask you about what she did. I'm asking 10 about what you did. You didn't -- 11 A. I did not -- I did not -- 12 Q. Let me finish my question first and I'll let you 13 answer. You didn't make any effort to reach out 14 and speak with Ms. Acevedo at any point in time 15 after December 20, correct? 16 MR. KLASS: Object to the form. 17 A. I did not. 18 Q. (By Ms. Gessner) I'm going to share another 19 document with you, Mr. Borutta, that's been marked 20 as Exhibit 5 to your deposition. Do you recognize 21 this document? It's 2Teupen00006. 22 A. I don't remember. It looks like an Insperity 23 document. I don't know. 24 Q. Well, Insperity ceased to be your PEO on 25 12/31/2019, correct? www.thompsonmi 1 1 s.com</p>
<p>Page 115</p> <p align="right">MARTIN BORUTTA 115</p> <p>1 MR. KLASS: Object to the form. 2 A. Ms. Gessner, we are running in a circle. She had 3 no complaints. 4 Q. (By Ms. Gessner) And is this policy written 5 anywhere that an employee can go and take a look at 6 it that you just described about how an 7 investigation is conducted when someone complains? 8 A. I don't know. 9 Q. Have you ever looked? 10 A. I don't know. 11 Q. And again, just for a clear record, you never had 12 another conversation with Ms. Acevedo after 13 December 20, correct? 14 MR. KLASS: Object to the form. 15 A. What do you mean with another conversation? 16 Q. (By Ms. Gessner) Did you ever meet with Ms. Acevedo 17 after December 20? 18 A. No. 19 Q. Did you ever Zoom call Ms. Acevedo after 20 December 20? 21 A. No. 22 Q. Did you ever pick up the phone and call Ms. Acevedo 23 after December 20? 24 A. I could not pick up the phone because I had no 25 possibility of talking to her on the phone. No, I www.thompsonmi 1 1 s.com</p>	<p>Page 117</p> <p align="right">MARTIN BORUTTA 117</p> <p>1 A. Yep, that's correct. Insperity ended '19. 2 Q. Who prepared this document? 3 A. I think I did, but I don't remember. 4 Q. Do you have the original -- 5 MS. GESSNER: Well, strike that. 6 Q. (By Ms. Gessner) Was this an Excel spreadsheet that 7 you prepared? 8 A. Possibly, yes. 9 Q. Do you have the original spreadsheet in your 10 possession? 11 A. I don't know. I would have to check. 12 Q. Are all the individuals on this Exhibit 5 still 13 employed with Teupen other than those that have a 14 date in the termination column? 15 A. We talked before about Robert Blackburn. Randy 16 Green is not any longer with the company. Tim 17 Hickman left the company. We talked about 18 Mr. Liebl was fired. Marc MacAlpine is not any 19 longer with Teupen. Ms. Molyn we talked about is 20 not any longer with Teupen. Mr. Turner, he has a 21 date, so -- and James Wood, he was like an intern. 22 He's not any longer with the company. 23 Q. Of these employee who are no longer with the 24 company other than Mr. Liebl and Mr. Blackburn, did 25 you terminate any of the others or did they quit? www.thompsonmi 1 1 s.com</p>

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<p>Sheet 31 Page 118</p> <p style="text-align: right;">MARTIN BORUTTA 118</p> <p>1 A. Let me see. Mr. Hickman left because of medical 2 conditions. He has problems with his leg. 3 Q. Who was that? You faded out. It was Mr. who? 4 A. Mr. Hickman. And Randy Green was terminated 5 because of performance issues and he's a white 6 male. 7 Q. Had Mr. Green complained to you about the way his 8 supervisor was treating him before you terminated 9 him? 10 A. No. 11 Q. And Mr. Green, was he your direct report? 12 A. He was service technician, so he was Mr. Rogers' 13 report. 14 Q. And had Mr. Green complained about his manager? 15 A. No, he had not. 16 Q. And had Mr. Green had performance issues that you 17 documented? 18 A. Yeah. He was a couple of times not on time so he 19 missed a lot of time and it was documented. 20 Q. Did you consult or investigate any claims made by 21 Mr. Green before terminating him? 22 A. There were no claims, so nothing to investigate. 23 Q. But again, Ms. Acevedo had made a claim against her 24 supervisor and you didn't investigate that, 25 correct?</p> <p style="text-align: right;">www.thompsonmi 1 1 s.com</p>	<p>Page 120</p> <p style="text-align: right;">MARTIN BORUTTA 120</p> <p>1 paste, so maybe that's wrong. I cannot tell you. 2 Q. What do you mean copy and paste? 3 A. You have on the former Excel sheet, I think so. I 4 don't know. I think he was white. He was male, 5 that's for sure. I never met him. 6 Q. So 13 to 14 employees and you had not met 7 Mr. Clamp? 8 A. No. When you look at the time he worked for Teupen 9 and he was in the service department, I'm traveling 10 a lot. 11 Q. Did anyone complain about Mr. Liebl before you 12 terminated him other than Ms. Acevedo? 13 MR. KLASS: Object to the form. 14 Q. (By Ms. Gessner) I didn't hear your answer, 15 Mr. Borutta. 16 A. No, nobody complained about Mr. Liebl. 17 Q. Anyone complain to you about Mr. Liebl that they 18 didn't like working with him because of the way he 19 treated them? 20 A. No, not to my knowledge. 21 Q. Well, you would be the person that employees would 22 complain to, correct? 23 A. I told you there were no complaints, so I cannot 24 know about them. There were no complaints. 25 Q. Are you aware of any single employee who's ever</p> <p style="text-align: right;">www.thompsonmi 1 1 s.com</p>
<p>Page 119</p> <p style="text-align: right;">MARTIN BORUTTA 119</p> <p>1 MR. KLASS: Object to the form. 2 A. No. She made not a claim against her supervisor, 3 Ms. Gessner. 4 Q. (By Ms. Gessner) Again, your word against hers, 5 correct? 6 MR. KLASS: Object to the form. 7 A. The whole day. 8 Q. (By Ms. Gessner) You can just keep answering it all 9 day. Thank you. 10 A. Yeah. 11 Q. Have you hired anyone -- 12 MS. GESSNER: Well, that strike 13 that. 14 Q. (By Ms. Gessner) How was it that you know the race 15 of each of these people that are on the Exhibit 5 16 given that Insperity no longer is your PEO? 17 A. Because it was copied from the former things. 18 Q. Well, look at Michael Clamp. He was hired on 19 March 23, 2020. Do you see that? 20 A. Michael Clamp, yeah, I see that. 21 Q. So he was hired after Insperity was long gone, 22 right? 23 A. Yeah. Yeah. 24 Q. And you've captured his race? 25 A. I don't know his race. It was I think copy and</p> <p style="text-align: right;">www.thompsonmi 1 1 s.com</p>	<p>Page 121</p> <p style="text-align: right;">MARTIN BORUTTA 121</p> <p>1 made a single complaint about how they were being 2 treated while working at Teupen other than 3 Ms. Acevedo? 4 MR. KLASS: Object to the form. 5 A. Ms. Acevedo did not claim her treatment. She 6 claimed that she doesn't like the people. That's 7 what she said, so -- and the rest of your question, 8 no, nobody ever claimed that he was being 9 mistreated at Teupen. Nobody claimed to me. 10 Q. (By Ms. Gessner) Just so we're sure we're clear, 11 it's not just Mr. Liebl my question. In the now 12 five years that you've been working for Teupen and 13 in the last two years, almost three years you've 14 been working as Teupen's CEO in North America, are 15 you aware of a single employee who has complained 16 about the way they were being treated at work? 17 MR. KLASS: Object to the form. 18 Q. (By Ms. Gessner) Do you understand my question, 19 Mr. Borutta? 20 A. I understand your question, but you've got to be 21 more precise. I told you at the beginning the 22 first years I was not involved in daily business so 23 I never could know about it. It was the 24 responsibility of Mr. Kesser. And since I'm 25 responsible in July or August 2019, no, there was</p> <p style="text-align: right;">www.thompsonmi 1 1 s.com</p>

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<p>Sheet 32 Page 122</p> <p style="text-align: right;">MARTIN BORUTTA 122</p> <p>1 no complaint about any mistreatment, no single</p> <p>2 complaint from no employee to me.</p> <p>3 Q. Okay. So you said something I have to break down.</p> <p>4 You were Mr. Kesser's supervisor, correct?</p> <p>5 A. I was a -- I told you I was the director and I saw</p> <p>6 Mr. Kesser three times a year. Yeah.</p> <p>7 Q. You were ultimately responsible for Teupen North</p> <p>8 America at all times even when Mr. Kesser was the</p> <p>9 CEO, correct?</p> <p>10 MR. KLASS: Object to the form.</p> <p>11 A. Yes. I was the president and Mr. Kesser was</p> <p>12 responsible for all the daily business. I wasn't</p> <p>13 involved in any daily business.</p> <p>14 Q. (By Ms. Gessner) Mr. Kesser reported to you,</p> <p>15 though, correct?</p> <p>16 A. Correct.</p> <p>17 Q. Who do you report to?</p> <p>18 A. To myself.</p> <p>19 Q. So Mr. Kesser may have been the president and he</p> <p>20 was operating the business, but he reported to you</p> <p>21 at all times, correct?</p> <p>22 A. He reported to me all times. That's correct.</p> <p>23 Q. And are you aware of anyone who came to you and</p> <p>24 complained about Mr. Kesser?</p> <p>25 A. No.</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>	<p>Page 124</p> <p style="text-align: right;">MARTIN BORUTTA 124</p> <p>1 lawsuit was filed is it your testimony you would</p> <p>2 know about it?</p> <p>3 A. No, that doesn't mean that I know about it, because</p> <p>4 that was the reason why I fired Mr. Kesser.</p> <p>5 Q. Are you aware of any other employees who have filed</p> <p>6 EEOC charges against Teupen?</p> <p>7 A. No.</p> <p>8 Q. Are you aware of any other employee who has filed</p> <p>9 any other types of complaints against Teupen?</p> <p>10 A. That's pretty broad what you're asking.</p> <p>11 Q. Again, you are the owner of Teupen, correct?</p> <p>12 A. I'm the majority shareholder, that is correct, and</p> <p>13 the CEO.</p> <p>14 Q. And you're talking about 13 to 14 people that --</p> <p>15 you've said it's a small business, so I'm asking</p> <p>16 would you be aware if there was an employee who had</p> <p>17 hired a lawyer and made a complaint?</p> <p>18 A. Since I am operationally responsible in 2019, yes,</p> <p>19 I would be aware.</p> <p>20 Q. And is it your testimony that you're not aware of a</p> <p>21 single other employee other than Mr. Kesser and</p> <p>22 Ms. Acevedo who have filed a complaint against</p> <p>23 Teupen?</p> <p>24 A. You asked a lawsuit, not a complaint.</p> <p>25 Q. No, I'm talking any type of complaint that was</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>
<p>Page 123</p> <p style="text-align: right;">MARTIN BORUTTA 123</p> <p>1 Q. Are you aware of anyone who complained to you about</p> <p>2 any other employee at Teupen while Mr. Kesser was</p> <p>3 the president?</p> <p>4 A. No.</p> <p>5 Q. Are you aware of any employee who complained to you</p> <p>6 about their supervisor after Mr. Kesser was</p> <p>7 terminated?</p> <p>8 A. No.</p> <p>9 Q. Are you aware of any other lawsuits that have been</p> <p>10 filed against Teupen?</p> <p>11 A. There have been lawsuits. I don't remember. Not</p> <p>12 -- yeah. You remembered Mr. Kesser, but I don't</p> <p>13 know whether we had other lawsuits. I don't know.</p> <p>14 Q. For the record, I think you're testifying that</p> <p>15 Mr. Kesser filed a lawsuit against Teupen, correct?</p> <p>16 A. I think that is correct.</p> <p>17 Q. And are you aware of any other employees who have</p> <p>18 filed lawsuits against Teupen other than Mr. Kesser</p> <p>19 and Ms. Acevedo?</p> <p>20 A. No, I'm not.</p> <p>21 Q. Would you be aware if a lawsuit was filed against</p> <p>22 the company?</p> <p>23 A. As long as it is served and as long as I'm the CEO</p> <p>24 responsible, yes. Not before my time.</p> <p>25 Q. Even when Mr. Kesser was the president, if a</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>	<p>Page 125</p> <p style="text-align: right;">MARTIN BORUTTA 125</p> <p>1 brought to your attention.</p> <p>2 A. Yeah, then you got to talk about complaints, not of</p> <p>3 lawsuits. I think there were other personal stuff</p> <p>4 with Mr. Taft, and I don't remember. I think</p> <p>5 Mr. Trainer, he was also one of your clients. You</p> <p>6 should remember that. So I don't know. I just</p> <p>7 remember Mr. Taft, Mr. Trainer, and Mr. Kesser.</p> <p>8 Q. What do you remember about Mr. Taft?</p> <p>9 A. That I terminated Mr. Taft's contract and -- in</p> <p>10 July when I was here to terminate Mr. Kesser's</p> <p>11 employment contract.</p> <p>12 Q. I didn't hear the last part. What?</p> <p>13 A. It was the time when I terminated Mr. Kesser's</p> <p>14 contract, the same week.</p> <p>15 Q. Did you pay Mr. Taft severance?</p> <p>16 A. I think he had a contract. Yeah, we had to pay him</p> <p>17 some.</p> <p>18 Q. And you said that he had filed a complaint. Did he</p> <p>19 hire a lawyer?</p> <p>20 A. He hired a lawyer, yeah.</p> <p>21 Q. And what happened with that case?</p> <p>22 A. He got a severance agreement. We paid his</p> <p>23 severance, and couple of weeks later I learned that</p> <p>24 we also had to pay medical charges for him.</p> <p>25 Q. How is it that you learned you had to pay medical a</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>

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<p>Sheet 33 Page 126</p> <p style="text-align: right;">MARTIN BORUTTA 126</p> <p>1 few weeks later? You didn't know that when you</p> <p>2 fired him?</p> <p>3 A. No, because I didn't even know how that works in</p> <p>4 the U.S. when I did that in July. I just</p> <p>5 terminated his employment agreement and the letter</p> <p>6 for his termination was drafted by an attorney,</p> <p>7 Parker Poe, you know very well. That was all I did</p> <p>8 and I signed that letter and instructed Ms. Acevedo</p> <p>9 to send that letter via certified mail to Mr. Taft.</p> <p>10 That was all I did.</p> <p>11 Q. And she followed your instructions, correct?</p> <p>12 MR. KLASS: Object to the form.</p> <p>13 A. She sent the letter via certified mail. That's</p> <p>14 what I know.</p> <p>15 Q. (By Ms. Gessner) So those were your instructions</p> <p>16 and she followed them, correct?</p> <p>17 A. It was my instruction.</p> <p>18 Q. And Ms. Acevedo followed your instruction, correct?</p> <p>19 MR. KLASS: Object to the form.</p> <p>20 A. Ms. Acevedo sent the letter via certified mail.</p> <p>21 Q. (By Ms. Gessner) And that's what you instructed her</p> <p>22 to do, correct?</p> <p>23 A. That was the same thing I instructed her to do and</p> <p>24 then it's an instruction, not instructions. I</p> <p>25 instructed her to send the termination letter via</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>	<p>Page 128</p> <p style="text-align: right;">MARTIN BORUTTA 128</p> <p>1 distracting to have you continue to click</p> <p>2 on and off.</p> <p>3 Q. (By Ms. Gessner) So, Mr. Borutta, who have you</p> <p>4 hired, if anyone, who is not reflected on</p> <p>5 Exhibit 5?</p> <p>6 A. Which year are you talking about?</p> <p>7 Q. Well, you've only provided us with employee lists</p> <p>8 for 2019 and 2020, not 2021. I'm asking you who</p> <p>9 have you hired that is not -- who currently works</p> <p>10 for Teupen who is not on this list that is</p> <p>11 Exhibit 5?</p> <p>12 A. I don't know because I give them permission to hire</p> <p>13 people, but I don't have to know their names</p> <p>14 exactly.</p> <p>15 Q. Who do you give permission to to hire people?</p> <p>16 A. To Mr. Rogers. When he shows me a resume, we</p> <p>17 discuss the position. I see the people maybe one</p> <p>18 time. Sometimes I don't see the people and they</p> <p>19 start at Teupen.</p> <p>20 Q. Do you know who the owner is of CHP, the accounting</p> <p>21 firm that you use?</p> <p>22 A. Mr. Harry Catrakilis, CPA. That's the name.</p> <p>23 Q. Is he a personal friend of yours?</p> <p>24 A. I know -- no. I know him a couple of years. We</p> <p>25 have been working in another company.</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>
<p>Page 127</p> <p style="text-align: right;">MARTIN BORUTTA 127</p> <p>1 certified mail for Mr. Taft. That's what I</p> <p>2 instructed her.</p> <p>3 Q. And Ms. Acevedo followed your instructions,</p> <p>4 correct?</p> <p>5 A. To send the letter via certified mail, correct.</p> <p>6 Q. Who was Mr. Taft's lawyer?</p> <p>7 A. I don't remember.</p> <p>8 Q. Did Mr. Taft file a lawsuit?</p> <p>9 A. No, I don't think so. I don't remember.</p> <p>10 MS. GESSNER: Counsel, I'm going to</p> <p>11 ask that you turn on your video because</p> <p>12 it seems you keep going off and on mute</p> <p>13 and I can't tell whether you're coaching</p> <p>14 this witness or not because you've chosen</p> <p>15 to leave your camera off. It's very</p> <p>16 distracting, your constant on and off, so</p> <p>17 are you in the same room with</p> <p>18 Mr. Borutta?</p> <p>19 MR. KLASS: I am not, and when I</p> <p>20 turn my microphone off it's because I'm</p> <p>21 coughing and I didn't want to interrupt</p> <p>22 the deposition.</p> <p>23 MS. GESSNER: Well, again it's --</p> <p>24 either leave it off and then turn it on</p> <p>25 when you need to, because it's very</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>	<p>Page 129</p> <p style="text-align: right;">MARTIN BORUTTA 129</p> <p>1 Q. What company was that?</p> <p>2 A. At Rofa. He was CPA of Rofa U.S.</p> <p>3 Q. And he started his own company and now you're</p> <p>4 hiring him as your CPA?</p> <p>5 A. No. He has his own company since 18 years.</p> <p>6 Q. Why didn't you hire CHP when Ms. Geraghty resigned?</p> <p>7 A. That name is CKH, just to have the correct name on</p> <p>8 file.</p> <p>9 Q. Are you saying -- I think it's C as in Charles --</p> <p>10 A. CK -- CK -- I can look it up. It's CKH. It's</p> <p>11 Catrakilis and I don't remember the other names,</p> <p>12 but I think it's CKH. But it doesn't matter, the</p> <p>13 accounting firm, because I wanted to have my</p> <p>14 accounting how I want to have it and that's how</p> <p>15 it's done now, in a correct form, in the right time</p> <p>16 and the way we need it for our reporting in</p> <p>17 Germany.</p> <p>18 Q. When Ms. Geraghty resigned and Ms. Acevedo assumed</p> <p>19 some of her responsibilities in the interim, why</p> <p>20 didn't you hire your friend at CKH to help?</p> <p>21 A. Why do you ask me whether I didn't hire my friend?</p> <p>22 I did not tell you that he's my friend. Please</p> <p>23 rephrase your question.</p> <p>24 Q. He's your former coworker, correct?</p> <p>25 A. No. He was hired as a -- it's an accounting firm</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>

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<p>Sheet 34 Page 130</p> <p style="text-align: right;">MARTIN BORUTTA 130</p> <p>1 outside and he is one of 60 employees. It's an 2 independent company, firm. 3 Q. That you worked with in a prior employer, correct? 4 A. He worked for me as a CPA as an accounting firm, so 5 I know him, yes. 6 Q. So you didn't know him for the first time when you 7 worked for Teupen? 8 A. Yeah, but that doesn't mean that he's my friend, so 9 please ask the right questions. 10 Q. Please don't tell me how to ask questions. You're 11 being combative unnecessarily, Mr. Borutta. I 12 asked you a question and you've continuously been 13 combative today unnecessarily. 14 A. Yeah. 15 Q. I asked you a question. When Ms. Acevedo was 16 seeking your help because you had dumped too many 17 tasks on her when Ms. Geraghty quit, did you seek 18 to get her any help including with your now 19 accounting firm CKH? 20 MR. KLASS: Object to the form. 21 A. I did not dump too many tasks. Ms. Acevedo was 22 asked whether she can take over the 23 responsibilities in the week Ms. Geraghty left and 24 she asked for a raise and that she's able to do all 25 that to fulfill her duties, so that's what www.thompsonmi 1 1 s.com</p>	<p>Page 132</p> <p style="text-align: right;">MARTIN BORUTTA 132</p> <p>1 A. I never heard that recording, but you provided the 2 recording and maybe you can play it that I heard 3 the first time, here the first time, that she made 4 a scene and didn't want to follow the instructions 5 that were clearly written down what she has to do 6 and to be demoted and what her new job duties. I 7 would have explained her if she would have reacted 8 in a professional manner and she didn't do that. 9 She was just disrespectful and I don't accept to be 10 disrespected. 11 Q. Ms. Acevedo had complained that she was being 12 disrespected and treated poorly by Mr. Liebl, but 13 you did nothing when she complained -- 14 A. No, she did not -- she did not -- 15 MR. KLASS: Object to the form of 16 the question. 17 A. No, she -- 18 Q. (By Ms. Gessner) Mr. Liebl (sic), did you 19 understand my question? 20 A. That is not the correct question. You always try 21 to put words in my mouth that are not correct. 22 Ms. Acevedo -- 23 Q. Mr. Borutta, Mr. Borutta, you just told me that you 24 demoted her one week, you didn't even see her or 25 talk to her, and then you terminate her because she www.thompsonmi 1 1 s.com</p>
<p>Page 131</p> <p style="text-align: right;">MARTIN BORUTTA 131</p> <p>1 happened. 2 Q. (By Ms. Gessner) And in fact, it wasn't until after 3 she complained about Mr. Liebl that you decided she 4 could no longer do the job, is that right? 5 MR. KLASS: Object to the form. 6 A. Ask the question again, please. 7 Q. (By Ms. Gessner) What part of my question did you 8 not understand? 9 A. The whole question. 10 Q. It wasn't until after Ms. Acevedo had complained 11 about how she was being treated by Mr. Liebl and 12 Ms. Melyn that you decided she couldn't do the job, 13 correct? 14 MR. KLASS: Object to the form. 15 A. I told you already five times when I decided that I 16 demote her. 17 Q. (By Ms. Gessner) But you demoted her; but you never 18 let her come back to work. Why? 19 MR. KLASS: Object to the form. 20 A. Because she refused the demotion in a very 21 unprofessional way. She disrespected my decision 22 and that means she disrespects me, so why should 23 she come back to work? 24 Q. (By Ms. Gessner) Tell me everything you mean when 25 you say she refused the demotion. www.thompsonmi 1 1 s.com</p>	<p>Page 133</p> <p style="text-align: right;">MARTIN BORUTTA 133</p> <p>1 was upset because when she complained to you about 2 how she was being treated you fired her. You fired 3 her. You demoted her and then you fired her when 4 she came forward and complained that she was being 5 discriminated against. 6 A. Ms. Gessner, you completely -- 7 Q. You didn't even have a single conversation with her 8 after December 20, correct? 9 MR. KLASS: Object to the form. 10 MS. GESSNER: Counsel, that's not an 11 objectionable question. 12 Q. (By Ms. Gessner) Mr. Borutta, answer this question: 13 You never spoke at all to Ms. Acevedo after 14 December 20, yes or no? 15 MR. KLASS: Object to the form. 16 A. So what is your last question? 17 Q. (By Ms. Gessner) What part about my question did 18 you not understand? 19 A. You ask different questions and you mix them up and 20 that makes it very -- 21 Q. Mr. Borutta, did you speak with Ms. Acevedo at any 22 time after December 20, 2019? 23 MR. KLASS: Object to the form. 24 A. You asked that -- that's the twelfth time now and I 25 said no. www.thompsonmi 1 1 s.com</p>

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<p>Sheet 35 Page 134</p> <p style="text-align: right;">MARTIN BORUTTA 134</p> <p>1 Q. (By Ms. Gessner) Mr. Borutta, I'm going to keep 2 asking this as long as you the answer the question, 3 so please answer the question. Yes or no, did you 4 speak with Ms. Acevedo at any point in time after 5 December 20?</p> <p>6 MR. KLASS: Object to the form.</p> <p>7 A. No, I did not.</p> <p>8 Q. (By Ms. Gessner) In fact, you personally did not 9 communicate her demotion to her, did you?</p> <p>10 A. No, I did not.</p> <p>11 Q. In fact, you sent in the person who she had 12 complained to you about to tell her that she was 13 being demoted, Mr. Liebl, correct?</p> <p>14 A. No, that's not correct.</p> <p>15 Q. Well, who informed Ms. Acevedo of her demotion?</p> <p>16 A. No, your question is not correct because she did 17 not complain about the person.</p> <p>18 Q. Well, again, that is her word against his. You 19 keep saying that. No one was present as to who 20 Ms. Acevedo complained about, correct?</p> <p>21 MR. KLASS: Object to form.</p> <p>22 A. Yeah, but tell me how should I answer a wrong 23 question with yes or no when you put words in my 24 mouth that are not correct? So I can just tell you 25 it's a wrong question.</p> <p style="text-align: right;">www.thompsonmi 1 1 s.com</p>	<p>Page 136</p> <p style="text-align: right;">MARTIN BORUTTA 136</p> <p>1 A. I didn't do it myself because I was not available.</p> <p>2 Q. (By Ms. Gessner) And you didn't make yourself 3 available, correct?</p> <p>4 A. I had no possibility to be available and that's why 5 I did it.</p> <p>6 Q. Mr. Borutta, did your phone not work at the end of 7 December 2019?</p> <p>8 A. I don't remember.</p> <p>9 Q. Is it your testimony that you don't remember 10 whether or not you had access to a working phone 11 between December 20 and December 30?</p> <p>12 A. I don't remember 2019. I have sometimes problems 13 with my phone.</p> <p>14 Q. Do you recall having any problems with your phone?</p> <p>15 A. I don't know. I don't remember.</p> <p>16 Q. Do you have access to a payphone?</p> <p>17 A. Are there any payphone out there? I don't know.</p> <p>18 Q. You're the one who's made this incredulous 19 statement that you don't think you had access to a 20 telephone for 10 days.</p> <p>21 A. No, I just said I don't remember whether my phone 22 was working or not.</p> <p>23 Q. Did you make any effort to find a working phone to 24 call Ms. Acevedo?</p> <p>25 A. I did not call Ms. Acevedo.</p> <p style="text-align: right;">www.thompsonmi 1 1 s.com</p>
<p>Page 135</p> <p style="text-align: right;">MARTIN BORUTTA 135</p> <p>1 Q. (By Ms. Gessner) Mr. Borutta, it's a totally -- 2 you're tying in these questions and being 3 unnecessarily combative. We'll have to take it to 4 the court and let the court review exactly what 5 you're doing because it's actually very, very 6 disrespectful to me. So I am telling you a 7 different question and you keep coming back.</p> <p>8 You sent in Andy Liebl to tell Ms. Acevedo 9 that you were demoting her, correct?</p> <p>10 MR. KLASS: Object to the form.</p> <p>11 A. I sent -- I sent Mr. Liebl and Ms. Molyn because I 12 was not present and I was not able to talk to 13 Ms. Acevedo.</p> <p>14 Q. (By Ms. Gessner) And Ms. Acevedo had complained to 15 you about working with Mr. Liebl and Ms. Molyn on 16 December 20 prior to having them communicate to her 17 that she was being demoted, correct?</p> <p>18 MR. KLASS: Object to the form.</p> <p>19 A. She has complained that she doesn't like to work 20 with them.</p> <p>21 Q. (By Ms. Gessner) And you sent the two people that 22 she complained to you about in to tell her that she 23 was being demoted; you didn't did do it yourself, 24 right?</p> <p>25 MR. KLASS: Object to the form.</p> <p style="text-align: right;">www.thompsonmi 1 1 s.com</p>	<p>Page 137</p> <p style="text-align: right;">MARTIN BORUTTA 137</p> <p>1 Q. Did you make any effort to call Ms. Acevedo?</p> <p>2 A. No, I did not make any effort to call Ms. Acevedo.</p> <p>3 Q. And again, you weren't present in any way for the 4 conversation that was had with Ms. Acevedo by 5 Mr. Liebl and Ms. Molyn when they were 6 communicating this demotion, right?</p> <p>7 A. I was not present.</p> <p>8 Q. And based upon Mr. Liebl and Ms. Molyn's statements 9 to you you decided to terminate Ms. Acevedo?</p> <p>10 MR. KLASS: Object to the form.</p> <p>11 A. That is correct.</p> <p>12 Q. (By Ms. Gessner) What day did you decide to 13 terminate Ms. Acevedo?</p> <p>14 A. The same day the demotion happened and I got the 15 reaction, the information of the reaction.</p> <p>16 Q. Why didn't you communicated the termination to 17 Ms. Acevedo on December 30, then?</p> <p>18 A. Because it's not my style to do that.</p> <p>19 Q. It's not what?</p> <p>20 A. It's not my style to do it. I didn't do it.</p> <p>21 Q. Well, what is your style on how to communicate 22 terminations?</p> <p>23 A. It was sent to her, so -- it was also sent to 24 Mr. Taft. I did not have a possibility to talk to 25 her, so I had to send it to her. I did not have a</p> <p style="text-align: right;">www.thompsonmi 1 1 s.com</p>

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<p>Sheet 36 Page 138</p> <p style="text-align: right;">MARTIN BORUTTA 138</p> <p>1 possibility to send the -- to present the</p> <p>2 termination in person to Mr. Taft, so I sent it to</p> <p>3 him. I didn't think --</p> <p>4 Q. How did -- go ahead. Sorry.</p> <p>5 A. No, I'm done. Go ahead.</p> <p>6 Q. How did you send the termination to Ms. Acevedo?</p> <p>7 A. I think it was sent via certified mail on my</p> <p>8 instruction or via email. I don't know. I don't</p> <p>9 remember.</p> <p>10 MR. KLASS: Counsel, it's 12:43. I</p> <p>11 just wanted to give you a heads up as to</p> <p>12 the time.</p> <p>13 MS. GESSNER: Okay. So I have just</p> <p>14 two more questions and then we'll take</p> <p>15 that break.</p> <p>16 Q. (By Ms. Gessner) So again, you didn't make any</p> <p>17 effort to call Ms. Acevedo and hear her side of</p> <p>18 what had happened with Mr. Liebl and Ms. Melyn</p> <p>19 during the demotion meeting before you terminated</p> <p>20 her, correct?</p> <p>21 A. No, I did not.</p> <p>22 Q. And Ms. Acevedo had no one else to complain to</p> <p>23 about the way that you had treated her above you,</p> <p>24 right? The buck stops with you?</p> <p>25 MR. KLASS: Object to the form.</p> <p style="text-align: right;">www.thompsonmi</p> <p style="text-align: right;">1</p> <p style="text-align: right;">1</p> <p style="text-align: right;">s.com</p>	<p>Page 140</p> <p style="text-align: right;">MARTIN BORUTTA 140</p> <p>1 MR. KLASS: Object to the form.</p> <p>2 A. You want me to answer the first or the second</p> <p>3 question?</p> <p>4 Q. (By Ms. Gessner) Both, please.</p> <p>5 A. Okay. Yeah. The very people I sent were both</p> <p>6 people I could trust in the company because I knew</p> <p>7 them the longest time and they made no mistakes</p> <p>8 from my point of view. Yes, that was my decision.</p> <p>9 And I did not contact Ms. Acevedo after</p> <p>10 December 20. That should answer all the questions</p> <p>11 regarding the time we had.</p> <p>12 Q. And you communicated to Ms. Acevedo she was being</p> <p>13 terminated on the day after you learned she had</p> <p>14 taken a medical leave, correct?</p> <p>15 MR. KLASS: Object to the form.</p> <p>16 A. I did not -- yeah, it was -- it was communicated --</p> <p>17 no, I don't -- it was not -- it was the day -- the</p> <p>18 day of -- I think it was the day of refusing her</p> <p>19 demotion. I don't remember, but maybe you have it</p> <p>20 there and we can look the date up. I don't</p> <p>21 remember. It's two years ago.</p> <p>22 Q. (By Ms. Gessner) And you didn't look at any</p> <p>23 documents to refresh your recollection on those</p> <p>24 dates prior to today?</p> <p>25 A. No, I did not.</p> <p style="text-align: right;">www.thompsonmi</p> <p style="text-align: right;">1</p> <p style="text-align: right;">1</p> <p style="text-align: right;">s.com</p>
<p>Page 139</p> <p style="text-align: right;">MARTIN BORUTTA 139</p> <p>1 Q. (By Ms. Gessner) Do you understand what I mean?</p> <p>2 A. No, I don't. Do you mean like I had to --</p> <p>3 Q. Well, you didn't investigate her complaints about</p> <p>4 Mr. Liebl, correct?</p> <p>5 MR. KLASS: Object to the form.</p> <p>6 A. Yeah. We just -- the discussion again.</p> <p>7 Q. (By Ms. Gessner) Mr. Borutta, you didn't</p> <p>8 investigate her complaints about Mr. Liebl,</p> <p>9 correct?</p> <p>10 MR. KLASS: Object to the form.</p> <p>11 A. If you tell me that you don't like somebody, that's</p> <p>12 not a complaint for me. No, I didn't investigate</p> <p>13 it because I didn't take it as a claim. It was not</p> <p>14 a written claim and it was not a claim and it was</p> <p>15 not formulated as a claim. It was just the</p> <p>16 statement I don't like to work with them and I</p> <p>17 don't like them. That's all that happened.</p> <p>18 Q. (By Ms. Gessner) And the very people that she was</p> <p>19 complaining about was who you sent to communicate</p> <p>20 the demotion, correct?</p> <p>21 MR. KLASS: Object to the form.</p> <p>22 Q. (By Ms. Gessner) After that communication you never</p> <p>23 spoke with her again before you decided to</p> <p>24 terminate her on the day after you become aware</p> <p>25 that she had taken a medical leave, correct?</p> <p style="text-align: right;">www.thompsonmi</p> <p style="text-align: right;">1</p> <p style="text-align: right;">1</p> <p style="text-align: right;">s.com</p>	<p>Page 141</p> <p style="text-align: right;">MARTIN BORUTTA 141</p> <p>1 MS. GESSNER: We'll take that lunch</p> <p>2 break. It's 12:46.</p> <p>3 MR. KLASS: Thank you.</p> <p>4 (RECESS)</p> <p>5 Q. (By Ms. Gessner) So we just had about a 50 minute</p> <p>6 break.</p> <p>7 A. Good.</p> <p>8 Q. Is there anything about this morning's testimony</p> <p>9 you would like to change?</p> <p>10 A. No.</p> <p>11 Q. Did you meet with your attorney during the lunch</p> <p>12 break?</p> <p>13 A. I had lunch with him, yes.</p> <p>14 Q. What did you discuss?</p> <p>15 A. We discussed the sandwiches from Panera Bread and</p> <p>16 Las Vegas.</p> <p>17 Q. Did you discuss this case at all?</p> <p>18 A. No, we did not.</p> <p>19 Q. So prior to the break we were talking about that</p> <p>20 you had made the decision to demote Ms. Acevedo on</p> <p>21 December 20, correct?</p> <p>22 MR. KLASS: Object to the form.</p> <p>23 A. That is correct.</p> <p>24 Q. (By Ms. Gessner) In fact, I think your testimony is</p> <p>25 the morning of the Christmas party you had decided</p> <p style="text-align: right;">www.thompsonmi</p> <p style="text-align: right;">1</p> <p style="text-align: right;">1</p> <p style="text-align: right;">s.com</p>

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<p>Sheet 37 Page 142</p> <p style="text-align: right;">MARTIN BORUTTA 142</p> <p>1 you were going to demote Ms. Acevedo, is that</p> <p>2 right?</p> <p>3 A. That is correct.</p> <p>4 Q. When did you --</p> <p>5 MS. GESSNER: Strike that.</p> <p>6 Q. (By Ms. Gessner) Did you prepare a letter to</p> <p>7 Ms. Acevedo communicating the demotion?</p> <p>8 A. I don't remember.</p> <p>9 Q. Have you seen a letter to Ms. Acevedo regarding her</p> <p>10 demotion?</p> <p>11 A. I think so, but I don't remember.</p> <p>12 Q. Do you remember typing a letter to Ms. Acevedo</p> <p>13 regarding her demotion?</p> <p>14 A. No. That's two years ago. I don't know how many</p> <p>15 letters I had at that time. No, I don't remember.</p> <p>16 No. Maybe you have a document you can show me.</p> <p>17 Q. I'm sharing with you what we've marked as</p> <p>18 Exhibit 6. Do you see that on the screen?</p> <p>19 A. I see it on the screen.</p> <p>20 Q. And it's Bates number 1Teupen00027. You see that?</p> <p>21 A. I see that.</p> <p>22 Q. You've got this document marked as pursuant to a</p> <p>23 protective order. What is confidential about this</p> <p>24 document that has trade secrets or information</p> <p>25 related to Teupen?</p> <p style="text-align: right;">www.thompsonmi</p> <p style="text-align: right;">1</p> <p style="text-align: right;">1</p> <p style="text-align: right;">s.com</p>	<p>Page 144</p> <p style="text-align: right;">MARTIN BORUTTA 144</p> <p>1 Q. What is the process that you have --</p> <p>2 MS. GESSNER: Well, strike that.</p> <p>3 Q. (By Ms. Gessner) Do you have this letter still on</p> <p>4 your computer at Teupen?</p> <p>5 A. Maybe. As I said before, I don't know.</p> <p>6 Q. Has anyone asked you to look and see if you have</p> <p>7 this letter in its original state, a forensic copy</p> <p>8 or copy in Word of this letter?</p> <p>9 MR. KLASS: Objection to the extent</p> <p>10 it calls for disclosure of attorney-</p> <p>11 client communications. To the extent</p> <p>12 that the witness can testify without</p> <p>13 disclosing such communications, he may do</p> <p>14 so.</p> <p>15 MS. GESSNER: Counsel, I have not</p> <p>16 asked him anything you said to him and</p> <p>17 I've repeatedly told him he doesn't have</p> <p>18 to tell me anything you told him. But</p> <p>19 whether he typed this letter or not he</p> <p>20 should know, and whether he has it still</p> <p>21 in his possession or not he should know.</p> <p>22 MR. KLASS: Well, you're --</p> <p>23 Q. (By Ms. Gessner) Mr. Borutta, do you have this</p> <p>24 letter in your possession, on your computer or</p> <p>25 Teupen's server in Word?</p> <p style="text-align: right;">www.thompsonmi</p> <p style="text-align: right;">1</p> <p style="text-align: right;">1</p> <p style="text-align: right;">s.com</p>
<p>Page 143</p> <p style="text-align: right;">MARTIN BORUTTA 143</p> <p>1 MR. KLASS: Object to the form.</p> <p>2 A. I don't know.</p> <p>3 Q. (By Ms. Gessner) Is there anything that -- I mean</p> <p>4 isn't this letter one that you've written to</p> <p>5 Ms. Acevedo?</p> <p>6 A. I think so. I don't remember.</p> <p>7 Q. Is that your signature at the bottom, Mr. Borutta?</p> <p>8 A. It is definitely my signature.</p> <p>9 Q. Did you type this letter?</p> <p>10 A. I don't remember whether I typed it, but I signed</p> <p>11 it.</p> <p>12 Q. Well, who has the original copy of this letter in</p> <p>13 original state, not this PDF?</p> <p>14 A. It must be in one of the files at Teupen. I don't</p> <p>15 know.</p> <p>16 Q. Do you use Word at Teupen?</p> <p>17 A. Sometimes.</p> <p>18 Q. Did you use Word to prepare this document?</p> <p>19 A. I don't know because I cannot remember whether I</p> <p>20 typed it, so I don't know.</p> <p>21 Q. Do you remember delegating someone else to type</p> <p>22 this letter?</p> <p>23 A. No. I don't remember.</p> <p>24 Q. If you didn't type that, who would?</p> <p>25 A. I don't know. I don't remember.</p> <p style="text-align: right;">www.thompsonmi</p> <p style="text-align: right;">1</p> <p style="text-align: right;">1</p> <p style="text-align: right;">s.com</p>	<p>Page 145</p> <p style="text-align: right;">MARTIN BORUTTA 145</p> <p>1 MR. KLASS: Object to the form.</p> <p>2 A. I don't know.</p> <p>3 Q. (By Ms. Gessner) And have you looked?</p> <p>4 A. No, I did not look.</p> <p>5 Q. Will you look for this letter and see if you have</p> <p>6 it in Word or Googledocs or some other format on</p> <p>7 the way it was typed? Could you do that?</p> <p>8 A. Why should I look for it?</p> <p>9 Q. We're asking you to. Are you refusing to look for</p> <p>10 and see if you have it?</p> <p>11 MR. KLASS: Object to the form.</p> <p>12 A. When should I look for it? If it's on the Teupen</p> <p>13 server, it's on the Teupen server. I have no</p> <p>14 access to the Teupen server, so --</p> <p>15 Q. (By Ms. Gessner) Again, we're going to send you an</p> <p>16 official request and ask the court to make you</p> <p>17 produce the official copy of this letter. Okay?</p> <p>18 I'm just giving you on Friday, October 15, at 1:45</p> <p>19 -- your lawyer should have asked you for this</p> <p>20 already. We're asking you for it because it hasn't</p> <p>21 been produced in its original format. So will you</p> <p>22 please agree to go and see if you have this letter</p> <p>23 and, if not, explain why it was deleted?</p> <p>24 A. If we have to produce it, sure. Yes, we will.</p> <p>25 Q. When do you recall preparing this letter?</p> <p style="text-align: right;">www.thompsonmi</p> <p style="text-align: right;">1</p> <p style="text-align: right;">1</p> <p style="text-align: right;">s.com</p>

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<p>Sheet 38 Page 146</p> <p style="text-align: right;">MARTIN BORUTTA 146</p> <p>1 MR. KLASS: Object to the form.</p> <p>2 A. I don't remember.</p> <p>3 Q. (By Ms. Gessner) Well, where were you on</p> <p>4 December 30, 2019?</p> <p>5 A. In Charlotte, not in the office.</p> <p>6 Q. Who else did you tell that you were going to</p> <p>7 provide Ms. Acevedo with this letter of demotion on</p> <p>8 December 30, 2019?</p> <p>9 A. I don't remember if I informed anybody on</p> <p>10 December 29 or on December 30, but if I informed</p> <p>11 anybody, then I informed Mr. Liebl about that</p> <p>12 because he had to provide the letter, so --</p> <p>13 Q. And Mr. Liebl and Ms. Molyn were both terminated</p> <p>14 after this lawsuit had been filed, correct?</p> <p>15 MR. KLASS: Object to the form.</p> <p>16 A. That's correct.</p> <p>17 Q. (By Ms. Gessner) Well, they both had been</p> <p>18 terminated after you were aware that Ms. Acevedo</p> <p>19 had filed an EEOC charge, correct?</p> <p>20 MR. KLASS: Object to the form.</p> <p>21 A. Ms. Molyn was not terminated.</p> <p>22 Q. (By Ms. Gessner) Well, both have left the</p> <p>23 employment of Teupen after Ms. Acevedo filed her</p> <p>24 claims, correct?</p> <p>25 MR. KLASS: Object to the form.</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>	<p>Page 148</p> <p style="text-align: right;">MARTIN BORUTTA 148</p> <p>1 this letter or you sent this letter?</p> <p>2 MR. KLASS: Object to the form.</p> <p>3 A. You got to be specific because for sure I deleted</p> <p>4 stuff from my computer, but that's not related to</p> <p>5 the case.</p> <p>6 Q. (By Ms. Gessner) Again, anything related to</p> <p>7 Ms. Acevedo's performance, her termination or her</p> <p>8 demotion, have you preserved all original copies of</p> <p>9 that information in your possession?</p> <p>10 A. I have preserved everything I had at that time I</p> <p>11 was asked for.</p> <p>12 Q. Well, do you delete emails and communications daily</p> <p>13 after you write it?</p> <p>14 A. No.</p> <p>15 Q. Do you have any reason to believe that you deleted</p> <p>16 the December 30, 2019, email at any point in time</p> <p>17 before January 7, 2020?</p> <p>18 MR. KLASS: Object to the form.</p> <p>19 A. I don't know. I have to check.</p> <p>20 Q. (By Ms. Gessner) Have you checked prior to today</p> <p>21 whether or not you have the original copies of this</p> <p>22 letter?</p> <p>23 A. No, I did not check.</p> <p>24 Q. So just to be sure I understand, you don't remember</p> <p>25 whether you typed this email or this letter to</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>
<p>Page 147</p> <p style="text-align: right;">MARTIN BORUTTA 147</p> <p>1 A. That is correct.</p> <p>2 Q. (By Ms. Gessner) Did you do anything to preserve</p> <p>3 their hard drives, computer systems, emails, any</p> <p>4 documents they have in their possession regarding</p> <p>5 this case?</p> <p>6 A. We did everything you requested in your litigation</p> <p>7 hold memo I remember you sent me on January 7,</p> <p>8 maybe, 2020.</p> <p>9 Q. So again, when Mr. Liebl and Ms. Molyn ceased to be</p> <p>10 employed with Teupen, what did you do with their</p> <p>11 computers?</p> <p>12 A. They are still there.</p> <p>13 Q. And no one is using them?</p> <p>14 A. Mr. Liebl is not and Ms. Molyn is not either. No.</p> <p>15 They are both there.</p> <p>16 Q. Were they reissued to anyone else?</p> <p>17 A. No.</p> <p>18 Q. So you still have copies of the hard drives of each</p> <p>19 of those computers?</p> <p>20 A. Mr. Liebl did not have a computer. He had terminal</p> <p>21 access, but the files are there. And Ms. Molyn's</p> <p>22 is locked up and that is still there and, yeah,</p> <p>23 it's in the office.</p> <p>24 Q. So same thing: have you deleted anything from your</p> <p>25 computer since December 30, 2019, when you wrote</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>	<p>Page 149</p> <p style="text-align: right;">MARTIN BORUTTA 149</p> <p>1 Ms. Acevedo or not, correct?</p> <p>2 A. Correct.</p> <p>3 Q. And you don't know who possibly could have typed</p> <p>4 it, is that correct?</p> <p>5 A. That's also correct.</p> <p>6 Q. Who potentially would have typed up letters for you</p> <p>7 in December 2019?</p> <p>8 MR. KLASS: Object to the form.</p> <p>9 Q. (By Ms. Gessner) Do you understand my question,</p> <p>10 Mr. Borutta? If you didn't type it, who could</p> <p>11 have?</p> <p>12 A. I understand the question. If anybody typed</p> <p>13 letters for me that would have been Ms. Acevedo --</p> <p>14 that doesn't make any sense in that case -- or</p> <p>15 Ms. Molyn or Mr. Liebl.</p> <p>16 Q. Ms. Molyn or who? I didn't hear the last part.</p> <p>17 A. Mr. Liebl.</p> <p>18 Q. So either Ms. Molyn, Mr. Liebl or you prepared this</p> <p>19 letter to Ms. Acevedo, is that correct?</p> <p>20 A. That is correct.</p> <p>21 Q. And I think you've already testified you did not</p> <p>22 deliver this letter to Ms. Acevedo; instead you had</p> <p>23 Mr. Liebl and Ms. Molyn do it, correct?</p> <p>24 MR. KLASS: Object to the form.</p> <p>25 A. That is correct.</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>

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<p>Sheet 39 Page 150</p> <p style="text-align: right;">MARTIN BORUTTA 150</p> <p>1 Q. (By Ms. Gessner) Do you know when Mr. Liebl and</p> <p>2 Ms. Molyn delivered this letter to Ms. Acevedo?</p> <p>3 A. I think December 30, but I don't know the time.</p> <p>4 Q. Do you recall when you decided to write Ms. Acevedo</p> <p>5 a letter?</p> <p>6 A. No, I don't recall.</p> <p>7 Q. Isn't it true that after Ms. Acevedo received this</p> <p>8 letter she immediately reached out to you and asked</p> <p>9 to meet with you?</p> <p>10 MR. KLASS: Object to the form.</p> <p>11 A. It's not true.</p> <p>12 Q. (By Ms. Gessner) It's not true that Ms. Acevedo</p> <p>13 contacted you asking to meet with you to discuss</p> <p>14 her newly demoted position?</p> <p>15 MR. KLASS: Object to the form.</p> <p>16 A. She did not ask for a meeting.</p> <p>17 Q. (By Ms. Gessner) I'm going to show you what we're</p> <p>18 marking as Exhibit 7. You see a document in front</p> <p>19 of you that is Exhibit 7 that is a two-page</p> <p>20 document? The Bates numbers are 00039 and 00040.</p> <p>21 Do you see that?</p> <p>22 A. Yeah.</p> <p>23 Q. Is your email address mborutta@teupen.com?</p> <p>24 A. That is my email address.</p> <p>25 Q. Do you see this email is dated Monday, December 30,</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>	<p>Page 152</p> <p style="text-align: right;">MARTIN BORUTTA 152</p> <p>1 MR. KLASS: Object to the form.</p> <p>2 Q. (By Ms. Gessner) Excuse me?</p> <p>3 A. I did not.</p> <p>4 Q. You've already testified you made no effort to</p> <p>5 contact Ms. Acevedo even though she reached out to</p> <p>6 you at 9:32 a.m. on December 30, correct?</p> <p>7 MR. KLASS: Object to you form.</p> <p>8 A. I testified that I did not have the possibility</p> <p>9 during the whole day to read my email, so I had not</p> <p>10 the possibility to contact her that day because I</p> <p>11 could not read my emails. That's what I testified</p> <p>12 about.</p> <p>13 Q. (By Ms. Gessner) And at no point in time from</p> <p>14 December 30 until the day that Ms. Acevedo was</p> <p>15 fired did you make any effort to reach out to</p> <p>16 Ms. Acevedo, correct?</p> <p>17 A. I did not contact Ms. Acevedo.</p> <p>18 Q. Because that's not your style, correct?</p> <p>19 MR. KLASS: Object to the form.</p> <p>20 Q. (By Ms. Gessner) Well, isn't that what you said?</p> <p>21 A. I said I did not call her and give her the</p> <p>22 demotion. If you scroll down that email, then you</p> <p>23 see what's not my style. That's what I explained</p> <p>24 you before.</p> <p>25 Q. Well, actually, how do you know what the email says</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>
<p>Page 151</p> <p style="text-align: right;">MARTIN BORUTTA 151</p> <p>1 at 9:32 a.m.?</p> <p>2 A. Yeah, I see that.</p> <p>3 Q. And it's from Ms. Acevedo?</p> <p>4 A. It looks like it's from Ms. Acevedo.</p> <p>5 Q. And it's to you and Ulf Birkenkamp. Do you see</p> <p>6 that?</p> <p>7 A. I see that.</p> <p>8 Q. Who is Ulf?</p> <p>9 A. That's the German controller I told you before, the</p> <p>10 CFO.</p> <p>11 Q. The subject line is "Go over my new role." You see</p> <p>12 that?</p> <p>13 A. I see that.</p> <p>14 Q. And it says, "Good morning, Martin. If you could</p> <p>15 please give me the time today to go over my new</p> <p>16 role since you have decided to change my duties."</p> <p>17 You see that?</p> <p>18 A. I see that.</p> <p>19 Q. Would you like to change your testimony that now</p> <p>20 you know that Ms. Acevedo did reach out to you on</p> <p>21 the same day she received the letter that you wrote</p> <p>22 demoting her?</p> <p>23 A. If she reached out to me, that is correct.</p> <p>24 Q. But a minute ago you said no, that it wasn't</p> <p>25 correct?</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>	<p>Page 153</p> <p style="text-align: right;">MARTIN BORUTTA 153</p> <p>1 if you hadn't reviewed it before?</p> <p>2 MR. KLASS: Object to the form.</p> <p>3 A. You showed it to me before. You see that line?</p> <p>4 You just need to read that line.</p> <p>5 Q. (By Ms. Gessner) No, no. You told me just a minute</p> <p>6 ago that Ms. Acevedo didn't email you, and until I</p> <p>7 showed you this email you kept saying, no, no, no,</p> <p>8 no, she never contacted you. Now you have an email</p> <p>9 in front of you that says she did, so you've now</p> <p>10 changed your testimony.</p> <p>11 MR. KLASS: Object to the form.</p> <p>12 A. I don't remember.</p> <p>13 Q. (By Ms. Gessner) So Ms. Acevedo contacted you</p> <p>14 December 30 at 9:32 and you made no effort</p> <p>15 whatsoever to contact her before you fired her,</p> <p>16 correct?</p> <p>17 MR. KLASS: Object to the form.</p> <p>18 A. I did not contact Ms. Acevedo. Yeah, that's</p> <p>19 correct.</p> <p>20 Q. (By Ms. Gessner) You just ignored this email,</p> <p>21 didn't you?</p> <p>22 MR. KLASS: Object to the form.</p> <p>23 A. That's not correct.</p> <p>24 Q. (By Ms. Gessner) Well, what did you do when you</p> <p>25 received the email?</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>

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<p>Sheet 40 Page 154</p> <p style="text-align: right;">MARTIN BORUTTA 154</p> <p>1 A. That's what I explained to you before. I decided 2 to terminate her.</p> <p>3 Q. After she sent you this email you decided to 4 terminate her?</p> <p>5 A. Yes.</p> <p>6 Q. After she requested to meet with you to discuss the 7 demotion?</p> <p>8 MR. KLASS: Object to the form.</p> <p>9 A. The complete email in the sentence that she does 10 not trust Ms. Molyn.</p> <p>11 COURT REPORTER: Excuse me. I'm 12 getting a lot of like reverberation and 13 feedback and I'm not getting this answer.</p> <p>14 THE WITNESS: Let me see you get it 15 now. Is it better?</p> <p>16 COURT REPORTER: We'll see. I don't 17 know.</p> <p>18 THE WITNESS: Can you hear me now?</p> <p>19 COURT REPORTER: Yes.</p> <p>20 A. Okay. After reading the whole email I decided, 21 because if you or -- Ms. Acevedo questioned my 22 decision to take on her new role because she 23 doesn't trust Ms. Molyn, so it was a logical 24 consequence for me to terminate if she doesn't want 25 to do that.</p> <p style="text-align: right;">www.thompsonmi 1 1 s.com</p>	<p>Page 156</p> <p style="text-align: right;">MARTIN BORUTTA 156</p> <p>1 -- you didn't begin to prepare the letter of 2 December 30 that is Exhibit 6 -- I'm sorry, where 3 are we? -- Exhibit 6 -- you didn't begin preparing 4 this on December 20, did you?</p> <p>5 A. I don't remember.</p> <p>6 Q. Did you begin preparing this before December 30? 7 MR. KLASS: Object to the form.</p> <p>8 A. I think so.</p> <p>9 MS. GESSNER: Well, counsel, we're 10 going to be asking for the metadata and 11 it is in the definitions and needs to be 12 produced in this case, and ask that you 13 produce the information as requested.</p> <p>14 We've only received the PDF and we have 15 not received the actual metadata, 16 forensic data related to this letter and 17 we need it. Do you hear me, Mr. Klass?</p> <p>18 MR. KLASS: I heard you. This is 19 the first time you've requested this.</p> <p>20 MS. GESSNER: That isn't true. That 21 isn't true. We have requested all of, 22 including the forensic data, and this is 23 the first time that we have asked you 24 more specifically to follow up on data 25 that we've asked you for since the</p> <p style="text-align: right;">www.thompsonmi 1 1 s.com</p>
<p>Page 155</p> <p style="text-align: right;">MARTIN BORUTTA 155</p> <p>1 Q. (By Ms. Gessner) So Ms. Acevedo complained to you 2 on December 20. She's complaining to you again in 3 writing on December 30 about someone who she 4 believes is making mistakes for Teupen, and as a 5 result of that complaint you retaliate and 6 terminate her, is that correct?</p> <p>7 MR. KLASS: Object to the form.</p> <p>8 A. That is not correct because I did not retaliate, or 9 I took my decision based on the mistakes 10 Ms. Acevedo made the month before, the money we 11 lost from Ms. Acevedo and my personal opinion what 12 I think about her duties and how she's fulfilling 13 her duties. That's how my decision is based on, 14 nothing else. And she didn't want to accept my 15 decision that she got go back to her old job 16 because she didn't want to report to Geraldine 17 Molyn. So that's the decision.</p> <p>18 Q. (By Ms. Gessner) But again, this testimony you're 19 giving, you didn't write it down anywhere at all 20 about this decision you allegedly made to demote 21 her before December 30, correct?</p> <p>22 MR. KLASS: Object to the form.</p> <p>23 A. I do not write my decisions down. I can take the 24 decisions.</p> <p>25 Q. (By Ms. Gessner) You didn't make any notes or any</p> <p style="text-align: right;">www.thompsonmi 1 1 s.com</p>	<p>Page 157</p> <p style="text-align: right;">MARTIN BORUTTA 157</p> <p>1 beginning of this case. So clearly it's 2 relevant and it's probative and this 3 witness had a duty to preserve, and so 4 we're asking that you produce it.</p> <p>5 MR. KLASS: We'll review it.</p> <p>6 MS. GESSNER: What objections do you 7 have to producing the metadata to this 8 letter?</p> <p>9 MR. KLASS: You can ask your 10 questions. We're not going to get into a 11 discovery dispute in this deposition.</p> <p>12 Q. (By Ms. Gessner) Mr. Borutta, what objections, if 13 any, do you have to producing this letter in its 14 original state off of your system?</p> <p>15 MR. KLASS: Object to the form.</p> <p>16 A. I don't know whether we have it on the system, but 17 we will find out.</p> <p>18 Q. (By Ms. Gessner) And again, you already testified 19 no one -- you have never looked to see whether you 20 have it on the system, is that correct?</p> <p>21 A. That's what I said before. Yes.</p> <p>22 Q. Has anyone ever asked you to look?</p> <p>23 MR. KLASS: Objection based on -- 24 I'll back up. To the extent the question 25 seeks testimony revealing attorney-client</p> <p style="text-align: right;">www.thompsonmi 1 1 s.com</p>

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<p>Sheet 41 Page 158</p> <p style="text-align: right;">MARTIN BORUTTA 158</p> <p>1 communications which are privileged I am</p> <p>2 directing the witness not to answer. To</p> <p>3 the extent that someone other than legal</p> <p>4 counsel has asked, then you can answer.</p> <p>5 Q. (By Ms. Gessner) Please answer the question,</p> <p>6 Mr. Borutta.</p> <p>7 A. I will not answer the question.</p> <p>8 Q. So the only person who's ask you is your lawyers;</p> <p>9 nobody else has asked you to go look for this</p> <p>10 document?</p> <p>11 A. (No response.)</p> <p>12 Q. Mr. Borutta?</p> <p>13 A. That's the same question. I don't remember.</p> <p>14 Q. And again, just so we have the full and complete</p> <p>15 record, after receiving Ms. Acevedo's email on</p> <p>16 12/30 at 9:32, you never responded to her or made</p> <p>17 any effort to have any communication with her</p> <p>18 whatsoever, correct?</p> <p>19 MR. KLASS: Object to the form.</p> <p>20 A. That is correct.</p> <p>21 Q. (By Ms. Gessner) I'm going to show you another</p> <p>22 document. When did you first learn that</p> <p>23 Ms. Acevedo had suffered a medical event and needed</p> <p>24 a medical leave?</p> <p>25 MR. KLASS: Object to the form.</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>	<p>Page 160</p> <p style="text-align: right;">MARTIN BORUTTA 160</p> <p>1 being demoted, correct?</p> <p>2 A. Yeah, December 30.</p> <p>3 Q. And on the same day that she at 9:32 a.m. had</p> <p>4 reached out to you asking you to speak with her and</p> <p>5 you never followed up, correct?</p> <p>6 MR. KLASS: Object to the form.</p> <p>7 A. I did not read my emails until late evening that</p> <p>8 day or maybe the next day. That's all I know.</p> <p>9 Q. (By Ms. Gessner) Did you make any effort after you</p> <p>10 read the emails either late on the 30th or on the</p> <p>11 31st to contact Ms. Acevedo in any way?</p> <p>12 MR. KLASS: Object to the form.</p> <p>13 A. No, I did not.</p> <p>14 Q. (By Ms. Gessner) Do you recall getting this text</p> <p>15 below from Ms. Acevedo that's reflected on</p> <p>16 Exhibit 7?</p> <p>17 A. I don't recall.</p> <p>18 Q. But you don't dispute receiving it, correct?</p> <p>19 A. I don't dispute.</p> <p>20 Q. I'm going to show you another document. This is</p> <p>21 Exhibit Number 9 to your deposition. It is a one-</p> <p>22 page document that is Acevedo000047. You see the</p> <p>23 number at the bottom?</p> <p>24 A. No, I don't see the number, but -- it's covered.</p> <p>25 Q. Do see at the top that it is an email from</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>
<p>Page 159</p> <p style="text-align: right;">MARTIN BORUTTA 159</p> <p>1 A. I don't remember when it was first -- I received a</p> <p>2 copy of her email about that, but I don't remember</p> <p>3 the date.</p> <p>4 Q. (By Ms. Gessner) I'm going to show you another</p> <p>5 document. This is an exhibit to your deposition,</p> <p>6 Exhibit Number 8. Have you seen this document</p> <p>7 before?</p> <p>8 A. Yeah. I think it was not an email. It was a</p> <p>9 message, but -- yeah, it was a message from her. I</p> <p>10 think so. I've seen that before.</p> <p>11 Q. Do you recall receiving a text message from</p> <p>12 Ms. Acevedo --</p> <p>13 A. Text message or email.</p> <p>14 Q. -- on December 30 indicating that she had suffered</p> <p>15 -- she was being treated by Novant Health, seen in</p> <p>16 a clinic on 12/30, and asked to be excused from</p> <p>17 work until January 6, 2020? Do you see that?</p> <p>18 A. That is the content of that message in the picture.</p> <p>19 Yes.</p> <p>20 Q. And again, do you have any reason to dispute that</p> <p>21 this was sent to you on December 30?</p> <p>22 A. I don't dispute it. I just didn't know when I</p> <p>23 received it.</p> <p>24 Q. And this was the same day that she had been</p> <p>25 informed by Mr. Liebl and Ms. Molyn that she was</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>	<p>Page 161</p> <p style="text-align: right;">MARTIN BORUTTA 161</p> <p>1 Ms. Acevedo's personal email account to you,</p> <p>2 Mr. Liebl, Patrick Blackburn?</p> <p>3 A. I see that.</p> <p>4 Q. And it's dated Monday, December 30, 2019, at 10:44?</p> <p>5 A. I don't see the time. I just see the date.</p> <p>6 Q. Do you not see the time because it's covered</p> <p>7 somehow?</p> <p>8 A. Yeah.</p> <p>9 Q. Can you move what's covering it on the desktop?</p> <p>10 A. I don't know.</p> <p>11 Q. Let me see if I can't move it for you.</p> <p>12 A. No, if you go back -- just go back.</p> <p>13 Q. Do you see right here, Monday, December 30, 2019,</p> <p>14 at 10:44?</p> <p>15 A. Yeah.</p> <p>16 Q. Do you see that now?</p> <p>17 A. Yeah, I see it.</p> <p>18 Q. And this is Ms. Acevedo following up again with the</p> <p>19 doctor's note that you saw on the text message,</p> <p>20 correct?</p> <p>21 A. It's the same thing, so yes.</p> <p>22 Q. And again, you said you didn't check your email</p> <p>23 until late on the 30th or maybe the next day. This</p> <p>24 is 10:44 p.m. You had received an email from her</p> <p>25 at 9:32 and at 10:44 and you never made any effort</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>

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<p>Sheet 42 Page 162</p> <p style="text-align: right;">MARTIN BORUTTA 162</p> <p>1 to contact her in any way during that day or after,</p> <p>2 correct?</p> <p>3 MR. KLASS: Object to the form.</p> <p>4 A. Yeah, that is correct.</p> <p>5 Q. (By Ms. Gessner) So what time of the day did you</p> <p>6 make the decision to terminate Ms. Acevedo on</p> <p>7 December 30?</p> <p>8 MR. KLASS: Object to the form.</p> <p>9 A. I don't know the time, but it was pretty, pretty</p> <p>10 late in the afternoon and evening. I'm sure about</p> <p>11 that, but I don't know exactly.</p> <p>12 Q. (By Ms. Gessner) Isn't it true you didn't decide to</p> <p>13 terminate Ms. Acevedo until you received her</p> <p>14 doctor's note?</p> <p>15 MR. KLASS: Object to the form.</p> <p>16 A. I cannot answer that question the way -- can you</p> <p>17 please ask the question again?</p> <p>18 Q. (By Ms. Gessner) What part of my question did you</p> <p>19 not understand?</p> <p>20 A. Your question is it true and I don't understand how</p> <p>21 to answer that. Please ask the correct question.</p> <p>22 Q. Is it true that you terminated Ms. Acevedo after</p> <p>23 you learned that she needed a medical leave?</p> <p>24 A. I terminated Ms. Acevedo after she came back on the</p> <p>25 30th. That should answer your question.</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>	<p>Page 164</p> <p style="text-align: right;">MARTIN BORUTTA 164</p> <p>1 client communications. The witness can</p> <p>2 answer the question only to the extent</p> <p>3 anyone other than legal counsel --</p> <p>4 MS. GESSNER: Well, David, we're</p> <p>5 going to litigate this because the</p> <p>6 request of discovery responses isn't</p> <p>7 privileged.</p> <p>8 Q. (By Ms. Gessner) I didn't say what did David say to</p> <p>9 you, what did Ben, who you don't even know is your</p> <p>10 lawyer, say to you. I'm asking did anyone ask you</p> <p>11 to go and look and see if you have documents</p> <p>12 relative to this case on your system. So Mr. Klass</p> <p>13 likes to talk and he likes to hear himself talk so</p> <p>14 he's making these unnecessary objections just to</p> <p>15 take up time and so those are definitely</p> <p>16 obstructing this deposition.</p> <p>17 So once again -- Mr. Borutta, you're a really</p> <p>18 smart guy, aren't you?</p> <p>19 MR. KLASS: Object to the form.</p> <p>20 Q. (By Ms. Gessner) Mr. Borutta, you're a really smart</p> <p>21 guy, aren't you?</p> <p>22 MR. KLASS: Object to the form.</p> <p>23 Harassing.</p> <p>24 A. I don't know what the question --</p> <p>25 MS. GESSNER: Right. Not harassing.</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>
<p>Page 163</p> <p style="text-align: right;">MARTIN BORUTTA 163</p> <p>1 Q. On what day?</p> <p>2 A. On December 30 -- no, on -- I think it was</p> <p>3 January 3, sorry, of the -- the demotion was</p> <p>4 December 30.</p> <p>5 Q. So you demote her on December 30 and then you</p> <p>6 terminate her on January 3 during her medical</p> <p>7 leave, correct?</p> <p>8 MR. KLASS: Object to the form.</p> <p>9 A. I don't remember. I did not look at her doctor's</p> <p>10 note.</p> <p>11 Q. (By Ms. Gessner) Wait a minute. You got a text at</p> <p>12 5:32 on December 30 and you didn't read it?</p> <p>13 A. My decision is based on not taking on the new job.</p> <p>14 Q. I didn't ask you about the decision. I asked you</p> <p>15 when you received the email or the text message</p> <p>16 regarding Ms. Acevedo's need for medical leave.</p> <p>17 MR. KLASS: Object to the form.</p> <p>18 A. I really don't know.</p> <p>19 Q. (By Ms. Gessner) Do you still have your text</p> <p>20 messages and your emails related to Ms. Acevedo</p> <p>21 from December 2019?</p> <p>22 A. I don't know.</p> <p>23 Q. Has anyone asked you to look?</p> <p>24 MR. KLASS: Objection to the extent</p> <p>25 it calls for disclosure of attorney-</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>	<p>Page 165</p> <p style="text-align: right;">MARTIN BORUTTA 165</p> <p>1 Oh, my gosh, I'm giving him a compliment.</p> <p>2 Q. (By Ms. Gessner) You're a really smart guy, aren't</p> <p>3 you, Mr. Borutta?</p> <p>4 MR. KLASS: Object to the form.</p> <p>5 A. I don't know.</p> <p>6 Q. (By Ms. Gessner) Do you think you're smart?</p> <p>7 MR. KLASS: Object to the form.</p> <p>8 A. It's not related to the case. I will not answer</p> <p>9 that question.</p> <p>10 Q. (By Ms. Gessner) Okay. It is related to the case.</p> <p>11 Do you understand the difference between a</p> <p>12 communication with your lawyer and a request to go</p> <p>13 find documents that you're required to preserve and</p> <p>14 find in litigation?</p> <p>15 MR. KLASS: Object to the form.</p> <p>16 Q. (By Ms. Gessner) Do you understand the difference</p> <p>17 between the two?</p> <p>18 MR. KLASS: Object to the form.</p> <p>19 A. I understand the difference. Please ask the</p> <p>20 question again.</p> <p>21 Q. (By Ms. Gessner) Okay. Have you gone to look for</p> <p>22 whether or not you have a copy of the text message</p> <p>23 or the email that Ms. Acevedo sent to you on</p> <p>24 December 30 on your devices?</p> <p>25 A. And my answer was I don't remember.</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>

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<p>Sheet 43 Page 166</p> <p style="text-align: right;">MARTIN BORUTTA 166</p> <p>1 Q. You don't remember whether you've looked or not?</p> <p>2 A. No. That's -- the case is three years old. I</p> <p>3 don't remember.</p> <p>4 Q. Have you deleted anything related to Ms. Acevedo</p> <p>5 from December of 2019?</p> <p>6 MR. KLASS: Object to the form.</p> <p>7 A. I don't remember.</p> <p>8 Q. (By Ms. Gessner) Do you still have the same cell</p> <p>9 phone that you were using in December of 2019?</p> <p>10 A. I don't remember. There was a new iPhone coming.</p> <p>11 I don't know. Maybe.</p> <p>12 Q. You mumbled. I didn't hear your testimony. Say it</p> <p>13 again.</p> <p>14 A. Maybe I don't remember or I don't know because</p> <p>15 maybe I got a new iPhone. I don't know.</p> <p>16 Q. So when you received a new iPhone did you back up</p> <p>17 the old phone to make sure you didn't destroy any</p> <p>18 documents related to this case?</p> <p>19 MR. KLASS: Object to the form.</p> <p>20 A. If the documents are related to the case and it was</p> <p>21 requested by the litigation hold memo, then they</p> <p>22 are still on that phone. If they were not</p> <p>23 requested by your hold memo, they are not on that</p> <p>24 phone.</p> <p>25 Q. (By Ms. Gessner) Well, you understood that text</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>	<p>Page 168</p> <p style="text-align: right;">MARTIN BORUTTA 168</p> <p>1 Q. Did you ask Andy Liebl to prepare this letter?</p> <p>2 A. I don't remember who prepared it.</p> <p>3 Q. Well, do you see Mr. Liebl's name on the left-hand</p> <p>4 side?</p> <p>5 A. Yeah.</p> <p>6 Q. And I think you earlier testified that you were the</p> <p>7 only -- that it was you who terminated Ms. Acevedo,</p> <p>8 correct?</p> <p>9 A. It's me that takes a decision, but I testified</p> <p>10 earlier that doesn't mean that I signed every</p> <p>11 termination letter. That's a different story.</p> <p>12 Q. So did you see this letter dated January 3, 2020,</p> <p>13 prior to Mr. Liebl giving it to Ms. Acevedo?</p> <p>14 A. I'm sure.</p> <p>15 Q. Excuse me?</p> <p>16 A. I am sure that I saw it before, yes.</p> <p>17 Q. And on January 3, 2020, Ms. Acevedo was on a</p> <p>18 medical leave, correct?</p> <p>19 MR. KLASS: Object to the form.</p> <p>20 A. I don't remember because I don't know from which</p> <p>21 date to which date the medical leave was.</p> <p>22 Q. (By Ms. Gessner) Well, again, let me refresh your</p> <p>23 recollection. You recall getting this letter from</p> <p>24 her medical provider that said that she was going</p> <p>25 to be out on January 2 and January 3 and could only</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>
<p>Page 167</p> <p style="text-align: right;">MARTIN BORUTTA 167</p> <p>1 messages were included in the litigation hold,</p> <p>2 didn't you?</p> <p>3 MR. KLASS: Object to the form.</p> <p>4 A. Sure, I understood. Yes.</p> <p>5 Q. (By Ms. Gessner) And we're going to ask that you</p> <p>6 produce copies of your actual iPhone that have</p> <p>7 these text messages on it as well as your computer</p> <p>8 that would have the doctor's notes, the date and</p> <p>9 time that you received on it. Do you have any</p> <p>10 objection to that, Mr. Borutta?</p> <p>11 MR. KLASS: Object to the form.</p> <p>12 A. No, I have no objections.</p> <p>13 Q. (By Ms. Gessner) Did you prepare the termination</p> <p>14 letter for Ms. Acevedo?</p> <p>15 A. I don't remember.</p> <p>16 Q. I'm going to share my screen with you again. This</p> <p>17 is Exhibit Number 10. Do you see a document on the</p> <p>18 screen, Mr. Borutta?</p> <p>19 A. I see a document.</p> <p>20 Q. And it's two pages. It is 1Teupen00024 and 00025.</p> <p>21 You see that?</p> <p>22 A. I see that.</p> <p>23 Q. Did you prepare Exhibit 10, this letter?</p> <p>24 A. I didn't agree that I prepared it. I don't</p> <p>25 remember whether I prepared it.</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>	<p>Page 169</p> <p style="text-align: right;">MARTIN BORUTTA 169</p> <p>1 return to work on January 6? Do you see that?</p> <p>2 A. I see that.</p> <p>3 Q. On January 3 she was still on an approved leave by</p> <p>4 her medical providers, correct?</p> <p>5 MR. KLASS: Object to the form.</p> <p>6 A. She was on a medical leave, yes.</p> <p>7 Q. (By Ms. Gessner) So the same -- within three days</p> <p>8 of being informed that she was on a medical leave</p> <p>9 you make the decision to terminate her during the</p> <p>10 medical leave?</p> <p>11 MR. KLASS: Object to the form.</p> <p>12 Q. (By Ms. Gessner) Is that accurate?</p> <p>13 MR. KLASS: Object to the form.</p> <p>14 A. I took a decision, yes.</p> <p>15 Q. (By Ms. Gessner) I'm going to show you what we are</p> <p>16 marking as Exhibit 11. I'm sorry. I have to hit a</p> <p>17 bunch of buttons to get these to come up. Okay.</p> <p>18 Exhibit 11 is a letter that was sent to you on</p> <p>19 January 7, 2020, correct?</p> <p>20 A. I don't remember the exact date and when I received</p> <p>21 it, but looks like it.</p> <p>22 Q. Do you see the word January and the number 7 at the</p> <p>23 top of Exhibit 11?</p> <p>24 A. I see that, yeah, but I don't recall when I</p> <p>25 received it.</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>

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<p>Sheet 44 Page 170</p> <p style="text-align: right;">MARTIN BORUTTA 170</p> <p>1 Q. And it was a two-page letter received by -- it was 2 sent to you from my office, correct? 3 A. It looks like, yes. 4 Q. What actions did you take when you received this 5 email to preserve all documents and all data 6 related to Ms. Acevedo? 7 A. I first got to read the document again. Then I can 8 tell you what actions I took. You got to give me 9 some time. 10 Q. Go right ahead. It's 2:18. 11 A. (Reviews document.) 12 Q. Have you had a chance to read the document, 13 Mr. Borutta? 14 A. Yeah. 15 Q. Do you recall my question? 16 A. Can you repeat it? 17 Q. What actions, if any, did you take to preserve the 18 data requested in this letter once you received it? 19 A. I informed the employees who had access to all that 20 mentioned information that nobody's allowed to 21 delete anything that's covered by your letter. 22 Q. Did you include all text messages, emails, all 23 documents in that communication? 24 A. I think I -- sorry. I think I showed a copy of 25 your letter to everybody. www.thompsonmi 1 1 s.com</p>	<p>Page 172</p> <p style="text-align: right;">MARTIN BORUTTA 172</p> <p>1 Q. And again, I know what you're going to say to this 2 because you've said it throughout the day, but 3 you're aware that Ms. Acevedo had complained to you 4 about Andy and Ms. Molyn on December 20 5 specifically, correct? 6 MR. KLASS: Object to the form. 7 A. She did not complain about them, but we were 8 talking them on December 20 I am aware of. 9 MS. GESSNER: Did you get that, 10 Michelle? It broke up on me. As long 11 you got it, that's all that matters. 12 COURT REPORTER: I did not. Thank 13 you. 14 Q. (By Ms. Gessner) Could you please complete your 15 answer? 16 A. Yeah. Ms. Acevedo did not complain about Ms. Molyn 17 and Mr. Liebl, but yeah, Mr. Liebl signed the 18 termination letter. 19 Q. That isn't what you said, but let me ask it again. 20 Ms. Acevedo on December 20 specifically named Andy 21 Liebl and Ms. Molyn as the two people that she was 22 complaining to you about on December 20, correct? 23 MR. KLASS: Form. 24 A. We were talking about Andy Liebl and Ms. Molyn 25 December 20. That's correct. www.thompsonmi 1 1 s.com</p>
<p>Page 171</p> <p style="text-align: right;">MARTIN BORUTTA 171</p> <p>1 Q. And you made it sound like earlier that maybe you 2 didn't receive this document on January 7. But do 3 you see up above that it was sent to you by email 4 and certified mail? You see that? 5 A. I see that, but doesn't mean that I received it 7, 6 but it's dated 7 and that would be correct. Yes. 7 Q. And again, can you recall -- 8 MS. GESSNER: Well, strike that. 9 Q. (By Ms. Gessner) Are you aware of any documents or 10 information regarding Ms. Acevedo that were deleted 11 between December 30 and January 7? 12 A. I don't remember. 13 Q. So everything regarding Ms. Acevedo should be 14 available to Teupen, is that correct? 15 MR. KLASS: Object to the form. 16 A. I don't know. Everything after January 7 after 17 your notice will be available if it has to be, yes. 18 Q. (By Ms. Gessner) So why did you have Andy author 19 the letter terminating Ms. Acevedo that is in 20 Exhibit 10? 21 A. I was not in the office. 22 Q. Again, you could have signed the email and sent it 23 to Ms. Acevedo yourself, couldn't you? 24 A. I decided to give the job just to sign the 25 termination notice. www.thompsonmi 1 1 s.com</p>	<p>Page 173</p> <p style="text-align: right;">MARTIN BORUTTA 173</p> <p>1 Q. (By Ms. Gessner) Have you terminated employees who 2 had a contract that you did not pay the severance 3 in the contract? 4 MR. KLASS: Object to the form. 5 A. I don't know. 6 Q. (By Ms. Gessner) Do you understand my question? 7 A. Yeah, I understand the question. I don't know or I 8 don't remember it, no. I don't know. 9 Q. Are there any documents that would help you refresh 10 your recollection of employees that you had 11 terminated and did not pay the contract? 12 A. If you have any documents, I don't remember. A lot 13 of things were done by attorneys, not by myself, so 14 I -- I -- it happened a lot in three years, so I 15 don't recall. 16 Q. What happened a lot in two years, terminating 17 people who had a contract? 18 A. We changed a lot of personnel. That's what you saw 19 and you know because you got some clients, so -- 20 and I don't recall. 21 Q. When Ms. Acevedo was terminated she was terminated 22 without cause, correct? 23 MR. KLASS: Object to the form. 24 A. That is correct. She was terminated without cause. 25 Q. (By Ms. Gessner) Yet now you claim that she was not www.thompsonmi 1 1 s.com</p>

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<p>Sheet 45 Page 174</p> <p style="text-align: right;">MARTIN BORUTTA 174</p> <p>1 performing her job?</p> <p>2 MR. KLASS: Object to the form.</p> <p>3 Q. (By Ms. Gessner) Is that true?</p> <p>4 A. Yeah, that is correct.</p> <p>5 Q. I'm going to show you a document. Do you see an</p> <p>6 employment agreement on your screen, Mr. Borutta?</p> <p>7 A. I see part of an employment agreement on my screen.</p> <p>8 Q. It's an eight-page document that starts with</p> <p>9 1Teupen9 through 1Teupen16. You see that?</p> <p>10 A. I see that, yes.</p> <p>11 Q. And on the left-hand corner on page 8 do you see</p> <p>12 PPAB1544587V1?</p> <p>13 A. I see that.</p> <p>14 Q. What does that stand for?</p> <p>15 MR. KLASS: Object to the form.</p> <p>16 A. I don't know. I have no idea.</p> <p>17 Q. (By Ms. Gessner) Did you draft -- did you prepare</p> <p>18 the employment agreement that is marked as</p> <p>19 Exhibit 11?</p> <p>20 A. If you would --</p> <p>21 Q. Sorry, 12, Exhibit 12.</p> <p>22 A. How should I? It's 2017.</p> <p>23 Q. Well, you were still working for Teupen in 2016</p> <p>24 although it was in Germany, correct?</p> <p>25 MR. KLASS: Object to the form.</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>	<p>Page 176</p> <p style="text-align: right;">MARTIN BORUTTA 176</p> <p>1 employment agreements for the U.S. -- for Teupen</p> <p>2 U.S.?</p> <p>3 MR. KLASS: Object to the form.</p> <p>4 A. Maybe I asked them in 2019, but I don't recall it.</p> <p>5 Q. (By Ms. Gessner) So do you recall asking them to do</p> <p>6 any work for Teupen USA in 2017?</p> <p>7 A. I was not operationally working for Teupen, so no,</p> <p>8 I did not.</p> <p>9 Q. We're gone through this. You were working for</p> <p>10 Teupen in Germany in the production environment in</p> <p>11 the German company that provides all of the</p> <p>12 equipment for the United States sales, correct?</p> <p>13 A. That is correct.</p> <p>14 Q. So do you have any reason to deny that PPAB and</p> <p>15 that number stands for Parker Poe Adams and</p> <p>16 Bernstein and that is an internal number at the law</p> <p>17 firm?</p> <p>18 MR. KLASS: Object to the form.</p> <p>19 A. I don't know what it is so I cannot tell you what</p> <p>20 it is.</p> <p>21 Q. (By Ms. Gessner) Have you ever asked anyone what it</p> <p>22 is?</p> <p>23 A. Sorry?</p> <p>24 Q. Have you ever asked anyone what that number stands</p> <p>25 for?</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>
<p>Page 175</p> <p style="text-align: right;">MARTIN BORUTTA 175</p> <p>1 A. Okay. I was not operational working for Teupen</p> <p>2 North American from December '16 until July 2019</p> <p>3 and that means that I did not sign contracts for</p> <p>4 employees and I wasn't involved in drafting</p> <p>5 contracts, I was not involved in terminating</p> <p>6 contracts, and I was just informed or asked for</p> <p>7 permission.</p> <p>8 Q. (By Ms. Gessner) Well, who hired lawyers at Teupen?</p> <p>9 MR. KLASS: Object to the form.</p> <p>10 Q. (By Ms. Gessner) Who had the authority in 2017 to</p> <p>11 hire a lawyer at Teupen?</p> <p>12 A. Can you scroll down to the last page, please?</p> <p>13 Q. In a minute I will. Please answer my question.</p> <p>14 Who at Teupen had the authority to hire lawyers in</p> <p>15 2017?</p> <p>16 MR. KLASS: Object to the form.</p> <p>17 A. Mr. Kesser was the president and depending on what</p> <p>18 he has to do.</p> <p>19 Q. (By Ms. Gessner) Did you hire Parker Poe Adamson</p> <p>20 and Bernstein or did Mr. Kesser?</p> <p>21 MR. KLASS: Object to the form.</p> <p>22 A. Parker Poe were already the lawyers for Teupen when</p> <p>23 I recall it correct since 2009, so I don't know who</p> <p>24 hired them.</p> <p>25 Q. (By Ms. Gessner) Did you ask Parker Poe to draft</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>	<p>Page 177</p> <p style="text-align: right;">MARTIN BORUTTA 177</p> <p>1 A. No. I had no reason to ask anyone for that number.</p> <p>2 Q. And looking at Ms. Acevedo's employment agreement,</p> <p>3 I want to refer to you the section about</p> <p>4 termination for cause, and there is a cause</p> <p>5 definition I think down here. Let's back up. The</p> <p>6 termination without cause, could you read</p> <p>7 paragraph (d)?</p> <p>8 A. (Reviews document.)</p> <p>9 Q. Did you finish reading it, Mr. Borutta?</p> <p>10 A. Yeah.</p> <p>11 Q. Isn't it true that you wanted Ms. Acevedo to be</p> <p>12 terminated without cause because you wanted her to</p> <p>13 sign a release and releasing the company from her</p> <p>14 claims of discrimination and retaliation in order</p> <p>15 to get paid? Isn't that correct?</p> <p>16 MR. KLASS: Object to the form.</p> <p>17 A. You got to re-ask the question because you asked</p> <p>18 again isn't it. I cannot answer isn't it. Can you</p> <p>19 please --</p> <p>20 Q. (By Ms. Gessner) Is it true -- is it true that you</p> <p>21 wanted her to sign -- you wanted to terminate her</p> <p>22 without cause because you had hoped that she would</p> <p>23 sign a release and therefore not be able to sue the</p> <p>24 company as she has done, claiming discrimination</p> <p>25 and retaliation that she suffered at the company?</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>

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<p>Sheet 46 Page 178</p> <p style="text-align: right;">MARTIN BORUTTA 178</p> <p>1 MR. KLASS: Object to the form.</p> <p>2 A. First of all, that is what she says what she</p> <p>3 suffered at the company. No, it's not true.</p> <p>4 COURT REPORTER: I'm sorry. I did</p> <p>5 not get that answer. There was</p> <p>6 distortion.</p> <p>7 A. Okay. I said first of all, that is what</p> <p>8 Ms. Acevedo said that she suffered at the company,</p> <p>9 and second, no, it's not true.</p> <p>10 Q. (By Ms. Gessner) Tell me all evidence you have that</p> <p>11 Ms. Acevedo was not discriminated against.</p> <p>12 MR. KLASS: Object to the form.</p> <p>13 A. I don't know. I have my meeting and I'm the</p> <p>14 witness for that meeting, so that's all evidence I</p> <p>15 have, but I have no evidence from Ms. Acevedo that</p> <p>16 she was discriminated.</p> <p>17 Q. (By Ms. Gessner) Well, she complained to you about</p> <p>18 being discriminated against, that your position is</p> <p>19 that she didn't, but we understand that that's your</p> <p>20 testimony. But again, it's your word against hers,</p> <p>21 correct?</p> <p>22 MR. KLASS: Object to the form.</p> <p>23 A. That is correct.</p> <p>24 Q. (By Ms. Gessner) So you weren't present for</p> <p>25 Ms. Acevedo's day in and day out working</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>	<p>Page 180</p> <p style="text-align: right;">MARTIN BORUTTA 180</p> <p>1 all of the interactions between Ms. Acevedo and</p> <p>2 Mr. Liebl, correct?</p> <p>3 A. On a daily business, that was their daily business</p> <p>4 what they had to do together if they have to do</p> <p>5 business together, so --</p> <p>6 Q. And you're aware that Ms. Acevedo had brought to</p> <p>7 you concerns about Mr. Liebl's use of the company</p> <p>8 credit card for his personal joy and benefit and as</p> <p>9 well as commingling his personal money with the</p> <p>10 company's money; you're aware of that, correct?</p> <p>11 MR. KLASS: Object to the form.</p> <p>12 A. That is not correct because it's incorrect what</p> <p>13 you're just explaining. That's why it's not</p> <p>14 correct.</p> <p>15 Q. (By Ms. Gessner) What part is not correct that I'm</p> <p>16 just explaining?</p> <p>17 A. Yeah, the part is not correct that he was mixing up</p> <p>18 private money with company money because he asked</p> <p>19 me for when he wanted to do a transaction and I</p> <p>20 permitted him that transaction.</p> <p>21 Q. And Ms. Acevedo brought to your --</p> <p>22 MS. GESSNER: Well, strike that.</p> <p>23 Q. (By Ms. Gessner) Did you tell Ms. Acevedo that you</p> <p>24 had permitted Andy to commingle personal money with</p> <p>25 the company's money?</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>
<p>Page 179</p> <p style="text-align: right;">MARTIN BORUTTA 179</p> <p>1 environment with Mr. Liebl, were you?</p> <p>2 MR. KLASS: Object to the form.</p> <p>3 A. -- time --</p> <p>4 Q. (By Ms. Gessner) Again your lawyer talked over you</p> <p>5 because he is incessant with his object to form</p> <p>6 unnecessarily. Please repeat your answer.</p> <p>7 A. I was present from time to time. We were talking</p> <p>8 about my presence in the U.S. earlier in the day</p> <p>9 already.</p> <p>10 Q. So I think you testified you were in the U.S. only</p> <p>11 seven times in 2019, correct?</p> <p>12 A. I think that's what I said before.</p> <p>13 Q. Of those seven times how often were you present</p> <p>14 with both Ms. Acevedo and Mr. Liebl in the same</p> <p>15 room?</p> <p>16 A. I don't remember.</p> <p>17 Q. Was it more than once?</p> <p>18 A. I don't remember.</p> <p>19 Q. Was it often? You say time to time. What does</p> <p>20 that mean to you?</p> <p>21 A. In a daily business there are days you meet five</p> <p>22 times a day and there are other days you meet one</p> <p>23 time a day, and so I don't remember. I cannot give</p> <p>24 you a number. I might be wrong.</p> <p>25 Q. But it is accurate that you were not present for</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>	<p>Page 181</p> <p style="text-align: right;">MARTIN BORUTTA 181</p> <p>1 MR. KLASS: Object to the form.</p> <p>2 A. I don't understand what your commingling does mean.</p> <p>3 I think my mic doesn't work. Okay. I don't</p> <p>4 understand that word. You got to explain me that.</p> <p>5 Q. (By Ms. Gessner) Well, Mr. Borutta, you just gave</p> <p>6 an example of what you think I'm talking about,</p> <p>7 that you claim you gave Andy express permission to</p> <p>8 do what he just did. Is that the testimony you</p> <p>9 just gave a minute ago?</p> <p>10 MR. KLASS: Object to the form.</p> <p>11 A. I gave Mr. Liebl the permission because he</p> <p>12 requested it. The company would issue him a</p> <p>13 counter check and he would get private checks to</p> <p>14 the company and I give him the permission to get</p> <p>15 that done. Yeah. If that's commingle, then it's</p> <p>16 commingle. I don't know that word.</p> <p>17 Q. (By Ms. Gessner) So you gave him permission to get</p> <p>18 private checks in his name on the company account,</p> <p>19 is that correct?</p> <p>20 MR. KLASS: Object to the form.</p> <p>21 A. Okay. Let me explain the deal. Maybe then it's</p> <p>22 more clear for you and I won't have the problem</p> <p>23 that I'm not able to explain. Mr. Liebl sold his</p> <p>24 private truck to Carmax and there was exact that</p> <p>25 situation, and he asked me, because the Carmax</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>

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<p>Sheet 47 Page 182</p> <p style="text-align: right;">MARTIN BORUTTA 182</p> <p>1 check took him five days or seven days before he</p> <p>2 received the money on his account, whether he could</p> <p>3 get a company check for the same amount of money</p> <p>4 the same day or the next day, and I said yes, I</p> <p>5 accept that. That was the whole story.</p> <p>6 Q. (By Ms. Gessner) And Ms. Acevedo was responsible</p> <p>7 for making sure that the company's money was</p> <p>8 accounted for, wasn't she?</p> <p>9 A. I am responsible that the company's money is</p> <p>10 accounted for, nobody else. Ms. Acevedo is an</p> <p>11 accountant. If she needs something to report to</p> <p>12 me, she can. I take the decisions, not</p> <p>13 Ms. Acevedo.</p> <p>14 Q. And when Ms. Acevedo, watching out for the</p> <p>15 company's money, reported it to you, you didn't</p> <p>16 tell her, oh, yeah, he's doing that with my</p> <p>17 permission, correct?</p> <p>18 A. I told Ms. Acevedo that he is allowed to do that,</p> <p>19 that I gave him the permission.</p> <p>20 Q. How did you tell Ms. Acevedo that he was allowed to</p> <p>21 do that and you gave him permission?</p> <p>22 A. I don't remember whether I sent her an email or I</p> <p>23 talked to her, but I told her that he had my</p> <p>24 permission.</p> <p>25 Q. I'm going to show you what I'm marking as</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>	<p>Page 184</p> <p style="text-align: right;">MARTIN BORUTTA 184</p> <p>1 yeah.</p> <p>2 Q. I didn't ask you whether it mattered to you,</p> <p>3 Mr. Borutta. I'm asking you do you see on</p> <p>4 Exhibit 13 the communication from Ms. Acevedo on</p> <p>5 October 16?</p> <p>6 A. I see it. I see it, yes.</p> <p>7 Q. Had you told Ms. Acevedo prior to October 16 that</p> <p>8 you had given Andy permission to do what he was</p> <p>9 doing?</p> <p>10 A. I don't remember.</p> <p>11 Q. Well, at any place in this email does Ms. Acevedo</p> <p>12 say to you, as you mentioned to me the transaction</p> <p>13 has taken place?</p> <p>14 A. Say that again, please. I didn't understand what</p> <p>15 you're asking.</p> <p>16 Q. Let me ask you a different question. Why do you</p> <p>17 believe that Ms. Acevedo was sending you this email</p> <p>18 on October 16, 2019, at 1:43 a.m.?</p> <p>19 MR. KLASS: Object to the form.</p> <p>20 A. Why I believe that, that's a good question because</p> <p>21 she sent that, took business on that's not her</p> <p>22 business. That's what I believe. I don't know.</p> <p>23 Q. (By Ms. Gessner) Well, it says expressly says "just</p> <p>24 wanted to let you know for auditing purposes."</p> <p>25 Didn't Ms. Acevedo tell you why she was sending you</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>
<p>Page 183</p> <p style="text-align: right;">MARTIN BORUTTA 183</p> <p>1 Exhibit 13. Do you see a document on the screen,</p> <p>2 Mr. Borutta?</p> <p>3 A. I see a document on the screen.</p> <p>4 Q. It's a multipage document. It's three pages. It</p> <p>5 starts with Acevedo73 and it ends with Acevedo75.</p> <p>6 Do you see that?</p> <p>7 A. Yes, I see that.</p> <p>8 Q. Have you seen this email exchange before,</p> <p>9 Mr. Borutta?</p> <p>10 A. I don't remember. Maybe, yes. I don't remember.</p> <p>11 Q. Well, let's look at it together. Do you recall</p> <p>12 receiving an email from Ms. Acevedo on October 16,</p> <p>13 2019?</p> <p>14 A. I told you before I don't remember, but yeah,</p> <p>15 maybe.</p> <p>16 Q. Do you see the email on the screen?</p> <p>17 A. I see the email on the screen.</p> <p>18 Q. Ms. Acevedo was informing you that a deposit for</p> <p>19 \$45,000 that included a check from Carmax was</p> <p>20 deposited. Do you see that?</p> <p>21 A. Yeah, I see.</p> <p>22 Q. And that she had to cut two checks and she just</p> <p>23 wanted you to know for auditing purposes that it</p> <p>24 was a personal transaction, correct?</p> <p>25 A. It doesn't matter to me which transaction it was,</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>	<p>Page 185</p> <p style="text-align: right;">MARTIN BORUTTA 185</p> <p>1 this email about this transaction?</p> <p>2 MR. KLASS: Objection. Object to</p> <p>3 the form.</p> <p>4 A. Yeah. That's fine. That's an email. I got the</p> <p>5 email, I read that email, and that's an email.</p> <p>6 Okay.</p> <p>7 Q. (By Ms. Gessner) And you responded on October 16 at</p> <p>8 4:05 a.m. and said, "Marjie, that's okay. Thanks</p> <p>9 for the information, Martin," correct?</p> <p>10 A. Here we go. Thank you for not showing me that.</p> <p>11 That's what I told you before. I think I -- that's</p> <p>12 not very nice.</p> <p>13 Q. (By Ms. Gessner) Mr. Borutta, excuse me.</p> <p>14 Mr. Borutta, nowhere in this communication did you</p> <p>15 say I approved what Andy did, did you?</p> <p>16 A. Ms. Gessner, when I sent an email back and that</p> <p>17 says that's okay, what does that mean? It does</p> <p>18 not --</p> <p>19 Q. I have no idea what it means.</p> <p>20 A. Yeah, it does mean it is approved. If you read</p> <p>21 that email, what you wanted to tell me before, that</p> <p>22 means that's okay. That means that is okay.</p> <p>23 Q. Mr. Borutta, what I'm attempting to try to get you</p> <p>24 to comprehend and answer questions about is that</p> <p>25 Ms. Acevedo did not know it was okay until you told</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>

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<p>Sheet 48 Page 186</p> <p style="text-align: right;">MARTIN BORUTTA 186</p> <p>1 her after the fact, correct?</p> <p>2 MR. KLASS: Object to the form.</p> <p>3 A. That doesn't matter anyhow. What is the problem</p> <p>4 with that?</p> <p>5 Q. (By Ms. Gessner) Well, she is informing you on how</p> <p>6 the transaction was handled so that she would not</p> <p>7 have any issues from you in allowing Andy to</p> <p>8 commingle money, isn't she?</p> <p>9 MR. KLASS: Object to the form.</p> <p>10 A. I approved the transaction, said it's okay, so --</p> <p>11 Q. (By Ms. Gessner) But, Mr. Borutta, you did not</p> <p>12 inform Ms. Acevedo prior to her telling you about</p> <p>13 the transaction that it had been approved; it was</p> <p>14 after, correct?</p> <p>15 MR. KLASS: Object to the form.</p> <p>16 A. Can you scroll down again?</p> <p>17 Q. (By Ms. Gessner) Yeah.</p> <p>18 A. Yeah, it looks like it was after. And what is the</p> <p>19 problem with approving the transaction?</p> <p>20 Q. So did you forward the email that she sent to you</p> <p>21 to Mr. Liebl?</p> <p>22 A. I don't remember. That's two years ago.</p> <p>23 Q. Read the notes that Ms. Acevedo wrote to herself</p> <p>24 that are on the first page of Exhibit 13 and tell</p> <p>25 me what, if anything, is not true about what she</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>	<p>Page 188</p> <p style="text-align: right;">MARTIN BORUTTA 188</p> <p>1 A. No.</p> <p>2 Q. Did she have a duty to inform you of the way the</p> <p>3 company's money is spent or is it you get to pick</p> <p>4 and choose what she can and can't do?</p> <p>5 A. It's not what I said before. I said it's not her</p> <p>6 business to take the decision. The information is</p> <p>7 fine, but it's not her business to take the</p> <p>8 decision who can make the transaction. I would</p> <p>9 like to take a break now.</p> <p>10 Q. Okay. No problem. You want 10 minutes?</p> <p>11 A. Yeah. Ten minutes.</p> <p>12 MR. KLASS: Thank you.</p> <p>13 (RECESS)</p> <p>14 Q. (By Ms. Gessner) I'm going to show you another</p> <p>15 document, Number 14, I think. Do you see a</p> <p>16 document on your screen, Mr. Borutta?</p> <p>17 A. I see a document.</p> <p>18 Q. This is a letter from you to me dated January 13,</p> <p>19 correct?</p> <p>20 A. It looks like, yes.</p> <p>21 Q. It's a one-page letter. Is that your signature?</p> <p>22 A. That's my signature.</p> <p>23 Q. Did you type this letter yourself?</p> <p>24 A. I think so. I cannot recall, but I think so.</p> <p>25 Q. Do you have the original copy of this letter</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>
<p>Page 187</p> <p style="text-align: right;">MARTIN BORUTTA 187</p> <p>1 has written.</p> <p>2 MR. KLASS: Object to the form.</p> <p>3 Q. (By Ms. Gessner) You can read, right, Mr. Borutta?</p> <p>4 A. I try to.</p> <p>5 Q. And you can understand my question?</p> <p>6 A. Let me read the email and I will get back to your</p> <p>7 question. (Reviews document.) Okay. I am done</p> <p>8 with it.</p> <p>9 Q. Is there anything that Ms. Acevedo wrote that isn't</p> <p>10 true?</p> <p>11 MR. KLASS: Object to the form.</p> <p>12 A. I don't know about the first thing because that was</p> <p>13 between them. I was not attending their meeting,</p> <p>14 so I can't tell you whether it's true or not</p> <p>15 because I was not present. The second, I don't</p> <p>16 know whether I talked to Mr. Liebl or not. We had</p> <p>17 a business talk and he just talked to me about and</p> <p>18 I can't recall it. That's three years ago. And</p> <p>19 the third one, yes, as an accountant she has to</p> <p>20 inform me about that, that's all, but she has no</p> <p>21 decide whether it's to be done or not.</p> <p>22 Q. (By Ms. Gessner) Well, is her job to inform you, or</p> <p>23 I think you said even her informing you was</p> <p>24 basically giving you information that wasn't any of</p> <p>25 her business. Which is it?</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>	<p>Page 189</p> <p style="text-align: right;">MARTIN BORUTTA 189</p> <p>1 anywhere?</p> <p>2 A. I think so.</p> <p>3 Q. Excuse me?</p> <p>4 A. Yeah, I think so.</p> <p>5 Q. Where do you think it is?</p> <p>6 A. In the office. I think you will have the original</p> <p>7 because I sent you the letter, so I could have a</p> <p>8 copy.</p> <p>9 Q. Let's define original. Mr. Borutta, did you type</p> <p>10 this letter in Word?</p> <p>11 A. I think so, yes.</p> <p>12 Q. Is the Teupen letterhead something you have to</p> <p>13 actually print on or is it something that you can</p> <p>14 use on electronic mail?</p> <p>15 A. I don't remember whether I printed it on or I had</p> <p>16 an electronic. I don't remember.</p> <p>17 Q. So the content of this letter, is it on your system</p> <p>18 somewhere?</p> <p>19 A. I think so.</p> <p>20 Q. You sent this letter indicating that you personally</p> <p>21 drafted the termination letter and advised</p> <p>22 Mr. Liebl, the operations manager, to execute it as</p> <p>23 you were not in the office that day. Do you see</p> <p>24 that?</p> <p>25 A. I see that.</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>

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<p>Sheet 49 Page 190</p> <p style="text-align: right;">MARTIN BORUTTA 190</p> <p>1 Q. So does that help refresh your recollection as to</p> <p>2 who drafted the termination letter and whose system</p> <p>3 it should be on?</p> <p>4 A. No, it doesn't help. I can look it up, but maybe I</p> <p>5 draft 50 percent of it, but it doesn't say I</p> <p>6 drafted the whole termination letter. I don't</p> <p>7 recall.</p> <p>8 Q. Well, it doesn't say you personally drafted 50</p> <p>9 percent of the termination letter, does it?</p> <p>10 A. No, I don't know who draft that, so I cannot recall</p> <p>11 as I said before.</p> <p>12 Q. And you reference for the first time the ongoing</p> <p>13 financial damages of thousands of dollars caused by</p> <p>14 Ms. Acevedo's mistakes. Did you ever provide any</p> <p>15 written feedback to Ms. Acevedo giving her specific</p> <p>16 information of what you claim is thousands of</p> <p>17 dollars caused by her mistakes?</p> <p>18 A. No, I didn't.</p> <p>19 Q. In fact, prior to you bringing on Mr. Liebl,</p> <p>20 Ms. Acevedo had really great performance according</p> <p>21 to Teupen, correct?</p> <p>22 MR. KLASS: Object to the form.</p> <p>23 A. I cannot answer the question because I don't know.</p> <p>24 Q. (By Ms. Gessner) Did you ever look at her</p> <p>25 performance reviews?</p> <p style="text-align: right;">www.thompsonmi 1 1 s.com</p>	<p>Page 192</p> <p style="text-align: right;">MARTIN BORUTTA 192</p> <p>1 A. It says. Correct.</p> <p>2 Q. Well, you made it sound as if she didn't work for</p> <p>3 Teupen when she received the performance</p> <p>4 evaluation.</p> <p>5 MR. KLASS: Object to the form.</p> <p>6 A. No, that's incorrect. I just -- I don't know. It</p> <p>7 should be by a single person because Teupen cannot.</p> <p>8 It was done by Ms. Geraghty. That's what I said.</p> <p>9 It looks like. I don't --</p> <p>10 Q. (By Ms. Gessner) Mr. Borutta --</p> <p>11 A. I did not look in that paperwork.</p> <p>12 Q. I'm not sure Ms. Thompson got your answer because</p> <p>13 you need to lean in and speak.</p> <p>14 A. No, I have a problem with that microphone and it's</p> <p>15 -- I don't know why. It worked before, but it's</p> <p>16 not.</p> <p>17 Q. My question to you was do you have any reason to</p> <p>18 dispute that the performance evaluations of</p> <p>19 Ms. Acevedo in 2017 and 2018 were provided to her</p> <p>20 from Teupen?</p> <p>21 MR. KLASS: Object to the form.</p> <p>22 A. I don't know.</p> <p>23 Q. (By Ms. Gessner) My gosh. Do you see Teupen, the</p> <p>24 words Teupen in the top right-hand corner?</p> <p>25 A. I see Teupen in the top right corner, yes.</p> <p style="text-align: right;">www.thompsonmi 1 1 s.com</p>
<p>Page 191</p> <p style="text-align: right;">MARTIN BORUTTA 191</p> <p>1 A. No, I did not.</p> <p>2 Q. Well, let's look at them together. Do you see</p> <p>3 what's been marked as Exhibit 15 on your screen?</p> <p>4 A. (No response.)</p> <p>5 Q. Mr. Borutta, do see a document on your screen?</p> <p>6 A. I see a document.</p> <p>7 Q. It's four pages. It begins with Teupen32 and ends</p> <p>8 with Teupen35. Do you see that?</p> <p>9 A. (No response.)</p> <p>10 Q. Is that a yes?</p> <p>11 A. Yes, I see it.</p> <p>12 Q. And this appears to be the 2017 and 2018</p> <p>13 performance evaluations that were given to</p> <p>14 Ms. Acevedo from Teupen. Do you have any reason to</p> <p>15 disagree with that statement?</p> <p>16 A. I disagree. Prepared by Sheri Geraghty or</p> <p>17 Mr. Kesser, but not by Teupen. So yeah, they were</p> <p>18 given to her. Yeah. okay.</p> <p>19 Q. Do you see the words Teupen in the top right-hand</p> <p>20 corner?</p> <p>21 A. Yeah. Sheri Geraghty, looks like she did it. I</p> <p>22 don't know who did it.</p> <p>23 Q. And the contract that Ms. -- the employment</p> <p>24 agreement that Ms. Acevedo had, referring you back</p> <p>25 to Exhibit 12, was with Teupen USA, correct?</p> <p style="text-align: right;">www.thompsonmi 1 1 s.com</p>	<p>Page 193</p> <p style="text-align: right;">MARTIN BORUTTA 193</p> <p>1 Q. And Ms. Geraghty worked for Teupen?</p> <p>2 A. Yes.</p> <p>3 Q. And she was Ms. Acevedo's manager, correct?</p> <p>4 A. I think she was.</p> <p>5 Q. And she gave Ms. Acevedo a performance evaluation</p> <p>6 dated 12/21/18 on behalf of Teupen, correct?</p> <p>7 MR. KLASS: Object to the form.</p> <p>8 A. I don't know. I don't know that signature, so I</p> <p>9 don't know. That should answer your question. I</p> <p>10 don't know it.</p> <p>11 Q. (By Ms. Gessner) Do you see the words employee</p> <p>12 signature and supervisor signature?</p> <p>13 A. I see the words.</p> <p>14 Q. Have you ever seen a performance evaluation form</p> <p>15 while you have owned and operated Teupen?</p> <p>16 A. No.</p> <p>17 Q. So you've never seen a form that is like the one</p> <p>18 that has been marked as Exhibit 15?</p> <p>19 A. No.</p> <p>20 Q. Any idea where this document came from then?</p> <p>21 A. No, sorry, because I don't know the documents.</p> <p>22 Q. Well, you produced it in this litigation. Where</p> <p>23 did it come from?</p> <p>24 A. I think it was in the personnel file, but I have no</p> <p>25 idea.</p> <p style="text-align: right;">www.thompsonmi 1 1 s.com</p>

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<p>Sheet 50 Page 194</p> <p style="text-align: right;">MARTIN BORUTTA 194</p> <p>1 Q. So you didn't take the time to go back and look at 2 the performance of Ms. Acevedo before you had put 3 Andy Liebl over her? 4 MR. KLASS: Object to the form. 5 A. Wrong expression, because I did not put Andy Liebl 6 over her. They were colleagues on the same level, 7 so I cannot answer that question the right way. 8 Q. (By Ms. Gessner) So you normally would have one 9 colleague terminate another colleague, just like 10 have Andy terminate Ms. Acevedo? 11 MR. KLASS: Object to the form. 12 A. I gave him the authority because I was not there. 13 Yes. 14 Q. (By Ms. Gessner) The very person that Ms. Acevedo 15 had complained to you about, correct? 16 MR. KLASS: Object to the form. 17 A. She did not complain about Mr. Liebl. We talked 18 about Mr. Liebl, and he was the person who gave her 19 the termination notice. Correct. 20 Q. (By Ms. Gessner) She expressly brought up 21 Mr. Liebl's name to you during the conversation 22 that you dispute happened, correct? 23 MR. KLASS: Object to the form. 24 A. She mentioned -- she mentioned Mr. Liebl. Yeah. 25 Correct.</p> <p style="text-align: right;">www.thompsonmi 1 1 s.com</p>	<p>Page 196</p> <p style="text-align: right;">MARTIN BORUTTA 196</p> <p>1 after that but beginning of the year, I think in 2 February. 3 MS. GESSNER: I need two minutes. 4 I've got somebody at my door. Give me 5 just a second. I need to see who this 6 is. 7 (RECESS) 8 Q. (By Ms. Gessner) Do you recall receiving the 9 discovery requests in this case from Ms. Acevedo? 10 A. No, I don't recall. 11 Q. Did you personally work to gather information to 12 provide it to the lawyers in response to the 13 discovery requests in this case? 14 A. I don't remember. 15 Q. Who else at Teupen has participated in the defense 16 of this case? 17 MR. KLASS: Object to the form. 18 A. Fisher Phillips. 19 Q. (By Ms. Gessner) I'm talking about anybody else who 20 works for Teupen. Have you delegated or discussed 21 this case with anyone at Teupen? 22 A. I don't remember. 23 Q. Is that maybe you did discuss it with someone at 24 Teupen, you just don't know who? 25 A. No. I said I don't remember. That's what I said.</p> <p style="text-align: right;">www.thompsonmi 1 1 s.com</p>
<p>Page 195</p> <p style="text-align: right;">MARTIN BORUTTA 195</p> <p>1 Q. (By Ms. Gessner) So again, you've never looked at 2 her performance evaluation at all? 3 MR. KLASS: Object to the form. 4 A. No, I did not. 5 Q. (By Ms. Gessner) Did you stop the practice of 6 conducting performance evaluations when you became 7 the CEO of Teupen USA? 8 MR. KLASS: Object to the form. 9 A. I did not do any performance review in the last 10 three years. 11 Q. (By Ms. Gessner) Do you know if any other managers 12 at Teupen conduct performance evaluations over the 13 last three years? 14 MR. KLASS: Object to the form. 15 A. It's two years since -- no, I don't know and I 16 don't think so. 17 Q. (By Ms. Gessner) Who holds the position that Marjie 18 had now? Do you know who Marjie is, Marjie 19 Acevedo? 20 A. Nobody holds Ms. Acevedo's position now. 21 Q. Who is performing her job duties? 22 A. The daily business is outsourced to CKH. 23 Q. And when did that take place? When did the 24 outsourcing take place? 25 A. When Ms. Molyn left the company. Not directly</p> <p style="text-align: right;">www.thompsonmi 1 1 s.com</p>	<p>Page 197</p> <p style="text-align: right;">MARTIN BORUTTA 197</p> <p>1 Q. Did you discuss the fact that you're being deposed 2 today with anyone at Teupen? 3 A. I told some people that I have an appointment for a 4 deposition, but not what the deposition is about. 5 Q. You broke up there. Maybe it was just me. 6 A. I just talked about that I have a deposition today, 7 but not what the deposition is about. 8 Q. Who did you tell you had a deposition today? 9 A. The gentlemen I fly to Las Vegas with. 10 Q. And who is that? 11 A. Mr. Rogers, Mr. Blackburn. 12 Q. Anyone else? 13 A. No. 14 Q. Have you asked anyone else at Teupen to assist you 15 in gathering information to provide it to Fisher 16 Phillips? 17 A. I don't remember. 18 Q. When were you last asked to provide information? I 19 don't want to know what your lawyer said before 20 Mr. Klass starts objecting, but when did you last 21 begin -- 22 MS. GESSNER: Strike all that. 23 Q. (By Ms. Gessner) When did you last search for 24 responsive information in this case? 25 A. I don't remember. Two weeks ago or three weeks. I</p> <p style="text-align: right;">www.thompsonmi 1 1 s.com</p>

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<p>Sheet 51 Page 198</p> <p style="text-align: right;">MARTIN BORUTTA 198</p> <p>1 -- I don't know exactly.</p> <p>2 Q. Have you hired anyone as a third-party vendor to do</p> <p>3 any searches through Teupen's email system</p> <p>4 associated with this case? Not what your lawyers</p> <p>5 did. Have you hired someone?</p> <p>6 A. No.</p> <p>7 Q. What actions have you personally taken to find</p> <p>8 responsive information in this case?</p> <p>9 A. I was looking through my emails and the</p> <p>10 possibilities of looking up documents.</p> <p>11 Q. Have you looked through Mr. Liebl's emails?</p> <p>12 A. I don't remember. I don't think so.</p> <p>13 Q. You don't think so?</p> <p>14 A. No, I don't think so.</p> <p>15 Q. Have you look through Ms. Molyn's emails?</p> <p>16 A. No, I don't think so.</p> <p>17 Q. Have you asked anyone to look through Ms. Molyn's</p> <p>18 or Mr. Liebl's emails?</p> <p>19 A. No, I did not.</p> <p>20 Q. Does Teupen have personnel files?</p> <p>21 A. There are some.</p> <p>22 Q. Where are they located?</p> <p>23 A. In one of the cabinets in the office.</p> <p>24 Q. In whose office?</p> <p>25 A. Actually in my office.</p> <p style="text-align: right;">www.thompsonmi 1 1 s.com</p>	<p>Page 200</p> <p style="text-align: right;">MARTIN BORUTTA 200</p> <p>1 A. That is correct. They inform about a medical</p> <p>2 leave.</p> <p>3 Q. I didn't hear the end part of that. What did you</p> <p>4 say?</p> <p>5 A. They inform about a medical leave and provide a</p> <p>6 doctor's note or not. Most of the time they</p> <p>7 provide one.</p> <p>8 Q. Just like Ms. Acevedo did, correct?</p> <p>9 MR. KLASS: Object to the form.</p> <p>10 A. I don't know what the others do, but that is the</p> <p>11 way, to provide a doctor's note or give the</p> <p>12 information for medical leave.</p> <p>13 Q. (By Ms. Gessner) Have you ever had -- while you</p> <p>14 were the CEO of Teupen USA from mid 2019 to</p> <p>15 present, have you had employees need to take</p> <p>16 medical leave other than Ms. Acevedo?</p> <p>17 A. Mr. Hickman was on medical leave.</p> <p>18 Q. Anyone else?</p> <p>19 A. I don't know. I just know about Mr. Hickman.</p> <p>20 Q. How were you aware that Mr. Hickman was on medical</p> <p>21 leave?</p> <p>22 A. Mr. Rogers told me that.</p> <p>23 Q. Did you provide any information regarding</p> <p>24 Mr. Hickman's medical leave in this case?</p> <p>25 MR. KLASS: Object to the form.</p> <p style="text-align: right;">www.thompsonmi 1 1 s.com</p>
<p>Page 199</p> <p style="text-align: right;">MARTIN BORUTTA 199</p> <p>1 Q. Have you looked through and provided all responsive</p> <p>2 information included in personnel files in this</p> <p>3 case?</p> <p>4 MR. KLASS: Object to the form.</p> <p>5 A. I don't remember.</p> <p>6 Q. (By Ms. Gessner) You don't know? You don't</p> <p>7 remember whether you looked or not?</p> <p>8 A. I don't remember.</p> <p>9 Q. Is it possible you didn't look at all?</p> <p>10 MR. KLASS: Object to the form.</p> <p>11 A. I don't remember.</p> <p>12 Q. (By Ms. Gessner) Well, Mr. Borutta, I'm trying to</p> <p>13 understand. Do you not remember you did it but you</p> <p>14 don't remember when or you didn't do it at all?</p> <p>15 A. I don't remember whether I looked, and if I looked</p> <p>16 I don't remember when I did it.</p> <p>17 Q. If an employee needs to take time off due to a</p> <p>18 medical condition, what do they need to do at</p> <p>19 Teupen?</p> <p>20 A. They tell their supervisor that they need medical</p> <p>21 leave.</p> <p>22 Q. Just like Ms. Acevedo did when she informed you she</p> <p>23 needed medical leave?</p> <p>24 MR. KLASS: Object to the form.</p> <p>25 Q. (By Ms. Gessner) Is that correct?</p> <p style="text-align: right;">www.thompsonmi 1 1 s.com</p>	<p>Page 201</p> <p style="text-align: right;">MARTIN BORUTTA 201</p> <p>1 A. Mr. Hickman's leave was in 2021 and I think I was</p> <p>2 requested from 2020, but I don't remember.</p> <p>3 Q. (By Ms. Gessner) At Teupen, if you need to take a</p> <p>4 sick day, is it any different than medical leave?</p> <p>5 MR. KLASS: Object to the form.</p> <p>6 A. I don't know. That's handled by Mr. Rogers.</p> <p>7 Q. (By Ms. Gessner) Do you require employees to bring</p> <p>8 doctor's note for sick days?</p> <p>9 A. I don't know. That's Mr. Rogers' business, daily</p> <p>10 business.</p> <p>11 Q. So does the company have a policy regarding how</p> <p>12 sick leave is handled or is it just up to his</p> <p>13 discretion however he wants to handle it?</p> <p>14 MR. KLASS: Object to the form.</p> <p>15 A. I think it's practice how they ever did it, but I</p> <p>16 don't know, so it's his discretion.</p> <p>17 Q. (By Ms. Gessner) What training, if any, has</p> <p>18 Mr. Rogers had about how to handle requests for</p> <p>19 leave?</p> <p>20 MR. KLASS: Object to the form.</p> <p>21 A. I don't know.</p> <p>22 Q. (By Ms. Gessner) And you have testified you haven't</p> <p>23 had any human resources training on United States</p> <p>24 laws, correct?</p> <p>25 MR. KLASS: Object to the form.</p> <p style="text-align: right;">www.thompsonmi 1 1 s.com</p>

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<p>Sheet 52 Page 202</p> <p style="text-align: right;">MARTIN BORUTTA 202</p> <p>1 A. I said that before, yes.</p> <p>2 Q. (By Ms. Gessner) Just so we have a clear record,</p> <p>3 yes, you have not had any training, correct?</p> <p>4 A. Did not have any HR training in the U.S.</p> <p>5 Q. Do you know what COBRA is?</p> <p>6 A. Not really.</p> <p>7 Q. Do you have any understanding as to what COBRA is?</p> <p>8 A. Not really. I told you before we don't have that</p> <p>9 in Germany.</p> <p>10 Q. Did you do anything when you became the CEO in 2019</p> <p>11 to educate yourself on what COBRA is?</p> <p>12 A. No, I did not, because we still had Insperity in</p> <p>13 2019.</p> <p>14 Q. At what point did you make the decision to get rid</p> <p>15 of Insperity?</p> <p>16 A. I asked for a comparison of different providers I</p> <p>17 think in September when I saw the cost of Insperity</p> <p>18 for the budget for the next year.</p> <p>19 Q. What was the timeframe again? I'm so sorry.</p> <p>20 A. I think it was September.</p> <p>21 Q. September of 2019?</p> <p>22 A. I think September.</p> <p>23 Q. And what, if anything, did you do to educate</p> <p>24 yourself on what responsibilities you had to your</p> <p>25 employees once you eliminated Insperity?</p> <p style="text-align: right;">www.thompsonmi 1 1 s.com</p>	<p>Page 204</p> <p style="text-align: right;">MARTIN BORUTTA 204</p> <p>1 A. I don't remember.</p> <p>2 Q. How about in 2020?</p> <p>3 A. I don't remember.</p> <p>4 Q. Give me just one moment. I've lost a document.</p> <p>5 How many employees were employed by Teupen</p> <p>6 U.S. in 2019?</p> <p>7 MR. KLASS: Object to the form.</p> <p>8 A. I don't know the exact number. I think 18.</p> <p>9 Q. (By Ms. Gessner) What makes you think it was 18?</p> <p>10 A. Because I think I saw the number. That's why I</p> <p>11 think it was 18, but I don't know it exactly. I</p> <p>12 think I saw it on my budget, but I don't remember</p> <p>13 exactly.</p> <p>14 Q. Let's see if I can show this to you. I think we</p> <p>15 are on Exhibit 16. Okay. I am showing you what</p> <p>16 has been marked as Exhibit 16 to your deposition.</p> <p>17 You see a document on the screen, Mr. Borutta?</p> <p>18 A. I see a document on the screen.</p> <p>19 Q. And this is Bates -- it's a two-page document. It</p> <p>20 is Bates number 2Teupen003 and 2Teupen004. This is</p> <p>21 what you produced through your lawyers to reflect</p> <p>22 the individuals who had been employed and/or</p> <p>23 terminated in 2019. Do you have any reason to</p> <p>24 dispute that?</p> <p>25 A. I think that's correct.</p> <p style="text-align: right;">www.thompsonmi 1 1 s.com</p>
<p>Page 203</p> <p style="text-align: right;">MARTIN BORUTTA 203</p> <p>1 A. I don't remember.</p> <p>2 Q. Let me show you another document. You say you</p> <p>3 don't remember. Do you recall doing anything? Did</p> <p>4 you ask for any type of training or transition from</p> <p>5 Insperity or get any instructions on what you</p> <p>6 needed to do since they were no longer going to be</p> <p>7 in place?</p> <p>8 A. I said I don't remember.</p> <p>9 Q. Again, Mr. Borutta, is that a you did do something,</p> <p>10 you don't remember what it is, or is that a you</p> <p>11 don't know whether you did anything or not?</p> <p>12 A. Maybe I did an online training, but I don't</p> <p>13 remember, so I cannot tell you. I don't remember.</p> <p>14 Q. What is it that makes you think that maybe you did</p> <p>15 an online training?</p> <p>16 A. Ms. Gessner, it's three years ago and I don't</p> <p>17 remember, so I don't remember. That's what I can</p> <p>18 tell you.</p> <p>19 Q. And since you decided to end the relationship with</p> <p>20 Insperity, have you done anything to obtain any</p> <p>21 type of training or information on U.S. employment</p> <p>22 laws?</p> <p>23 A. I don't remember.</p> <p>24 Q. Have you had any training this year, in 2021, on</p> <p>25 U.S. labor laws?</p> <p style="text-align: right;">www.thompsonmi 1 1 s.com</p>	<p>Page 205</p> <p style="text-align: right;">MARTIN BORUTTA 205</p> <p>1 Q. So let's take a look at this one by one. How many</p> <p>2 people is it that you say were employed in 2019?</p> <p>3 You thought 18?</p> <p>4 A. Full-time equivalent the whole year, I think 18.</p> <p>5 Yes.</p> <p>6 Q. Do you have an understanding that you, Teupen, have</p> <p>7 a responsibility to offer COBRA notice for all</p> <p>8 employers who employ 19 or more employees for six</p> <p>9 months? Do you have an understanding of that?</p> <p>10 MR. KLASS: Object to the form.</p> <p>11 A. No. I don't know.</p> <p>12 Q. (By Ms. Gessner) Let's count the number of</p> <p>13 employees that are on this list. Why don't you do</p> <p>14 that for me? Let me go up. Can you see it?</p> <p>15 A. I can see it.</p> <p>16 Q. Okay. Count the number of employees.</p> <p>17 A. That's a total number of 23.</p> <p>18 Q. Of those 23 employees can you determine how many</p> <p>19 were employed in 2019 at least six months?</p> <p>20 A. I think it's 22.</p> <p>21 Q. So more than 19 employees worked greater than six</p> <p>22 months in 2019 at Teupen, correct?</p> <p>23 MR. KLASS: Object to the form.</p> <p>24 A. I believe so.</p> <p>25 Q. (By Ms. Gessner) And when you ended the contract</p> <p style="text-align: right;">www.thompsonmi 1 1 s.com</p>

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<p>Sheet 53 Page 206</p> <p style="text-align: right;">MARTIN BORUTTA 206</p> <p>1 with Insperity at the end of December 2019 Teupen</p> <p>2 had a responsibility to offer COBRA notices to its</p> <p>3 employees when they were terminated after</p> <p>4 December 31, 2019, correct?</p> <p>5 MR. KLASS: Object to the form.</p> <p>6 A. I don't know of that obligation because I told you</p> <p>7 before I don't know it.</p> <p>8 Q. (By Ms. Gessner) Sitting here today you're aware</p> <p>9 that no one sent Ms. Acevedo a COBRA notice after</p> <p>10 she was fired on January 3, 2020, correct?</p> <p>11 MR. KLASS: Object to the form.</p> <p>12 A. I don't know whether Ms. Acevedo received a COBRA</p> <p>13 notice from Insperity. She must have received one.</p> <p>14 Q. (By Ms. Gessner) But isn't it true when Insperity</p> <p>15 sent notices it was only for anyone who had</p> <p>16 terminated before their contract expired, correct?</p> <p>17 MR. KLASS: Object to the form.</p> <p>18 A. Now again you asked isn't it true. I cannot answer</p> <p>19 isn't it true question.</p> <p>20 Q. (By Ms. Gessner) Well, Mr. Borutta, you're the one</p> <p>21 who canceled the contract, correct?</p> <p>22 A. I canceled the contract with Insperity.</p> <p>23 Q. Do you know whether or not Insperity had an</p> <p>24 obligation in 2020 to do anything for Teupen?</p> <p>25 MR. KLASS: Object to the form.</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>	<p>Page 208</p> <p style="text-align: right;">MARTIN BORUTTA 208</p> <p>1 privileged communications, and the</p> <p>2 witness can answer to the extent it would</p> <p>3 not reveal those communications.</p> <p>4 Q. (By Ms. Gessner) Once again, Mr. Borutta, do you</p> <p>5 need Mr. Klass's constant reminder about not</p> <p>6 talking -- not providing any information that he's</p> <p>7 told you or any other lawyer has told you? Do you</p> <p>8 need that constant reminder?</p> <p>9 MR. KLASS: I'm going to object too</p> <p>10 as you are now interfering with my</p> <p>11 ability to represent my client, so I will</p> <p>12 make objections that I see fit for my</p> <p>13 client. You can ask your next question.</p> <p>14 MS. GESSNER: Not at all.</p> <p>15 Mr. Klass, we're going to start running</p> <p>16 some time here so I can get this witness</p> <p>17 back. We need him for multiple reasons,</p> <p>18 but your lengthy and slow and annoying</p> <p>19 objections have been -- we've been very</p> <p>20 patient all day long. It is way over the</p> <p>21 top, so this client has been -- this</p> <p>22 witness has been informed numerous times</p> <p>23 today not to disclose anything that he</p> <p>24 said to you or that you said to him. I</p> <p>25 didn't even ask him anything about what</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>
<p>Page 207</p> <p style="text-align: right;">MARTIN BORUTTA 207</p> <p>1 A. They had no obligation to do anything for Teupen.</p> <p>2 Q. (By Ms. Gessner) Because they weren't being paid</p> <p>3 anymore by Teupen, correct?</p> <p>4 A. That is correct.</p> <p>5 Q. So any obligation regarding COBRA notice in 2020</p> <p>6 was Teupen's stand-alone, not Insperity, correct?</p> <p>7 MR. KLASS: Object to the form.</p> <p>8 A. I don't know because I am not a COBRA specialist.</p> <p>9 Q. (By Ms. Gessner) I didn't ask whether you were.</p> <p>10 A. I don't know.</p> <p>11 Q. I didn't ask whether you were. If there are legal</p> <p>12 responsibilities under COBRA laws in 2020, only</p> <p>13 Teupen would be responsible, correct?</p> <p>14 MR. KLASS: Object to the form.</p> <p>15 A. I don't know because in 2020 Teupen had way less</p> <p>16 employees starting from January 2020, and so I</p> <p>17 don't know.</p> <p>18 Q. (By Ms. Gessner) Has anyone educated you in this</p> <p>19 case at all -- are you now aware that it's the six</p> <p>20 months preceding the termination that you do the</p> <p>21 math to determine whether there were more than 19</p> <p>22 employees?</p> <p>23 MR. KLASS: Object to the form. And</p> <p>24 also object to the extent that counsel is</p> <p>25 asking for disclosure of attorney-client</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>	<p>Page 209</p> <p style="text-align: right;">MARTIN BORUTTA 209</p> <p>1 his lawyers said. I'm asking about what</p> <p>2 his knowledge is related to the Teupen,</p> <p>3 his company's obligations to employees</p> <p>4 regarding COBRA. You're just talking to</p> <p>5 talk now and to waste time and to</p> <p>6 obstruct this deposition.</p> <p>7 MR. KLASS: Your comment just then</p> <p>8 was much longer than my objection.</p> <p>9 MS. GESSNER: Yeah. Okay.</p> <p>10 Q. (By Ms. Gessner) Mr. Borutta, do you have any</p> <p>11 knowledge what you're supposed to do at all in 2020</p> <p>12 about COBRA?</p> <p>13 MR. KLASS: Object to the form.</p> <p>14 A. No, I have not.</p> <p>15 Q. (By Ms. Gessner) Have you Googled the word COBRA to</p> <p>16 determine what your legal obligation is to your</p> <p>17 employees under COBRA?</p> <p>18 A. I don't remember.</p> <p>19 Q. Have you done any independent research of your own</p> <p>20 to understand what your obligation is under COBRA?</p> <p>21 A. I don't remember.</p> <p>22 Q. Have you provided COBRA notices to any other</p> <p>23 employees who you terminated after 2020?</p> <p>24 A. No, as I -- no, not as I would know.</p> <p>25 Q. When did you decide to file counterclaims against</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>

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<p>Sheet 54 Page 210</p> <p style="text-align: right;">MARTIN BORUTTA 210</p> <p>1 Ms. Acevedo?</p> <p>2 A. You will find that in your email conversation with</p> <p>3 me.</p> <p>4 Q. Well, you didn't file a lawsuit against her in</p> <p>5 January of 2020, did you?</p> <p>6 A. No, but I already told you that there will be legal</p> <p>7 consequences if I do not get my company property</p> <p>8 back and that's what was clear, what I have to do</p> <p>9 if I don't get it back on time and as requested.</p> <p>10 Q. Nothing prevented you from filing a lawsuit against</p> <p>11 Ms. Acevedo in 2020 if you believed that she had</p> <p>12 kept your property unlawfully, correct?</p> <p>13 A. Was that a question?</p> <p>14 Q. Yeah.</p> <p>15 A. I can't -- that wasn't for me a question. What's</p> <p>16 the question?</p> <p>17 Q. Mr. Borutta, you're saying based upon your letter</p> <p>18 you sent me that if you didn't get the property</p> <p>19 back you are going to have to take legal action</p> <p>20 against Ms. Acevedo. Isn't that the testimony you</p> <p>21 just referred to?</p> <p>22 MR. KLASS: Object to form.</p> <p>23 A. Yeah. That's correct.</p> <p>24 Q. (By Ms. Gessner) And that was in January of 2020,</p> <p>25 correct?</p> <p style="text-align: right;">www.thompsonmi 1 1 s.com</p>	<p>Page 212</p> <p style="text-align: right;">MARTIN BORUTTA 212</p> <p>1 Q. Did you sue her now as you have done now? Did you</p> <p>2 sue her civilly before she filed a claim against</p> <p>3 Teupen?</p> <p>4 A. No. I took action. That's what I told them.</p> <p>5 Q. Excuse me?</p> <p>6 A. We took legal action and we followed up on that.</p> <p>7 Q. Well, I understand what you think is legal action</p> <p>8 is -- your testimony is that you went to the</p> <p>9 police, correct?</p> <p>10 A. Yeah. First of all, we went to the police.</p> <p>11 Q. And then did you file any type of complaint or</p> <p>12 action against Ms. Acevedo before she filed her</p> <p>13 claim against Teupen?</p> <p>14 MR. KLASS: Object to the form.</p> <p>15 A. I don't remember when we filed the counterclaim.</p> <p>16 Q. (By Ms. Gessner) Where is Ms. Acevedo's laptops?</p> <p>17 A. Teupen laptop that was used by Ms. Acevedo must be</p> <p>18 the right question. It's in my office.</p> <p>19 Q. And how long has it been in your office?</p> <p>20 A. Since we got it back.</p> <p>21 Q. So you have not used it or redistributed it in any</p> <p>22 way to another employee since you received it?</p> <p>23 A. No.</p> <p>24 Q. Have you turned it on?</p> <p>25 A. No.</p> <p style="text-align: right;">www.thompsonmi 1 1 s.com</p>
<p>Page 211</p> <p style="text-align: right;">MARTIN BORUTTA 211</p> <p>1 A. That was January 2020.</p> <p>2 Q. And you did not file a complaint against</p> <p>3 Ms. Acevedo until after she had filed the EEOC</p> <p>4 charge and lawsuit against Teupen, correct?</p> <p>5 A. I don't remember.</p> <p>6 Q. Well, do you know what day you filed the</p> <p>7 counterclaim?</p> <p>8 A. I don't remember.</p> <p>9 Q. Did you take any action to file a lawsuit against</p> <p>10 Ms. Acevedo before she had filed her EEOC charge</p> <p>11 and lawsuit against Teupen?</p> <p>12 A. I told you that we will take legal action and --</p> <p>13 Q. Did you?</p> <p>14 A. Sorry?</p> <p>15 Q. Did you take any legal action against Ms. Acevedo</p> <p>16 before she filed an EEOC charge and lawsuit against</p> <p>17 Teupen?</p> <p>18 A. Yes, we did.</p> <p>19 Q. What legal action did you take against Ms. Acevedo</p> <p>20 before she filed an EEOC charge and lawsuit against</p> <p>21 Teupen?</p> <p>22 A. I don't know how you call it, but because -- I can</p> <p>23 only tell you in German, but I sent Mr. Liebl and</p> <p>24 Ms. Molyn to the police to file a claim that our</p> <p>25 property was stolen by Ms. Acevedo.</p> <p style="text-align: right;">www.thompsonmi 1 1 s.com</p>	<p>Page 213</p> <p style="text-align: right;">MARTIN BORUTTA 213</p> <p>1 Q. So you still have the hard drive intact in the same</p> <p>2 manner and form in which that she had it last; is</p> <p>3 that accurate?</p> <p>4 A. That's -- I cannot answer that question because I</p> <p>5 don't know whether the hard drive is intact.</p> <p>6 Q. Have you done anything to look at her computer?</p> <p>7 A. I took it and put it in a drawer.</p> <p>8 Q. And it's still in that drawer?</p> <p>9 A. It's still in the drawer.</p> <p>10 Q. We have asked for a forensic copy of the computer.</p> <p>11 Are you agreeable to give it to us?</p> <p>12 MR. KLASS: Object to the form.</p> <p>13 A. I got to discuss that with my legal counsel. I</p> <p>14 don't know.</p> <p>15 Q. (By Ms. Gessner) You have preserved the two</p> <p>16 computers that she had and you have not touched</p> <p>17 them and opened them and used them in any way since</p> <p>18 they were returned; is that accurate?</p> <p>19 A. That's not what I said.</p> <p>20 Q. Well, what have you done with her computers since</p> <p>21 you received them?</p> <p>22 A. First of all, it's not her computers. Second of</p> <p>23 all, the one Teupen computer Ms. Acevedo used at</p> <p>24 her house is in my drawer and the other computer</p> <p>25 was an accounting computer that is still in the</p> <p style="text-align: right;">www.thompsonmi 1 1 s.com</p>

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<p>Sheet 55 Page 214</p> <p style="text-align: right;">MARTIN BORUTTA 214</p> <p>1 accounting office. That's what we did with them.</p> <p>2 Q. Has anyone turned on Ms. Acevedo's computers that</p> <p>3 she used when she was working for Teupen since they</p> <p>4 were returned?</p> <p>5 A. Which one?</p> <p>6 Q. Either one.</p> <p>7 A. For sure, because the second one is the accounting</p> <p>8 computer. It's not Ms. Acevedo's computer.</p> <p>9 Q. But again, you had a duty to preserve everything</p> <p>10 that was on that computer as soon as you received</p> <p>11 it back in your possession. Did you take an image</p> <p>12 of her computer?</p> <p>13 A. The computer is -- her user is still her user, but</p> <p>14 it doesn't mean if another uses that computer that</p> <p>15 her image is not on the computer.</p> <p>16 Q. Mr. Borutta, we're entitled to see when the</p> <p>17 computer was turned on after it was returned to</p> <p>18 you. Have you done anything to delete that</p> <p>19 information?</p> <p>20 MR. KLASS: Object to the form.</p> <p>21 A. I answered you before I took the --</p> <p>22 Q. (By Ms. Gessner) You haven't. You have not</p> <p>23 answered the question. Mr. Borutta, let me make --</p> <p>24 let's start over. Let me start over. It's very</p> <p>25 important that you focus on my question and you</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>	<p>Page 216</p> <p style="text-align: right;">MARTIN BORUTTA 216</p> <p>1 anything, to preserve the data on the computer</p> <p>2 Ms. Acevedo had been using in the office?</p> <p>3 A. I informed my employees, as I told you before, and</p> <p>4 showed them your litigation hold notice, not to</p> <p>5 delete or to take anything off that computer.</p> <p>6 Q. We have asked for a copy of the hard drive of both</p> <p>7 of her computers, the one she used in accounting</p> <p>8 and the one that she used at home. Do you have</p> <p>9 copies of those hard drives in your possession?</p> <p>10 MR. KLASS: Object to the form.</p> <p>11 A. The hard drives are in my possession, so --</p> <p>12 Q. (By Ms. Gessner) On the computer that was returned</p> <p>13 to you by your lawyers, once they made an</p> <p>14 appearance in this lawsuit, what did you do with</p> <p>15 that computer when you received it?</p> <p>16 MR. KLASS: Object to the form.</p> <p>17 A. The same question, same answer. I took it and put</p> <p>18 it in a drawer in my office.</p> <p>19 Q. (By Ms. Gessner) And has it been used by anyone</p> <p>20 since?</p> <p>21 A. Not of my knowledge, but I don't lock my office,</p> <p>22 so --</p> <p>23 Q. So you have a copy -- you have that computer in</p> <p>24 your possession for which that you could provide a</p> <p>25 copy of the hard drive so that we may inspect how</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>
<p>Page 215</p> <p style="text-align: right;">MARTIN BORUTTA 215</p> <p>1 answer what I'm asking you. When you received the</p> <p>2 computer, the computers that Ms. Acevedo was using,</p> <p>3 there were two of them, correct?</p> <p>4 A. Again, the one we didn't receive it, so --</p> <p>5 Q. I didn't ask you a second question. Let me ask it</p> <p>6 to you so it's very clear, because you like to give</p> <p>7 me answers that are not responsive.</p> <p>8 A. Ms. Acevedo --</p> <p>9 Q. She had two computers in her possession. Are you</p> <p>10 claiming that she kept two computers and didn't</p> <p>11 return two computers?</p> <p>12 MR. KLASS: Object to the form.</p> <p>13 A. Ms. Acevedo had one computer in her possession that</p> <p>14 we received, I don't remember, and Ms. Acevedo was</p> <p>15 using the former accounting computer from</p> <p>16 Ms. Geraghty in the accounting office and there was</p> <p>17 an accounting computer after she left the company</p> <p>18 because it was always an accounting computer.</p> <p>19 Q. (By Ms. Gessner) Okay. So it was an accounting</p> <p>20 computer that was left on her desk that she used</p> <p>21 last before she was terminated in January 2020,</p> <p>22 correct?</p> <p>23 A. Yes.</p> <p>24 Q. On January 7, 2020, when you received my letter</p> <p>25 with a litigation hold notice, what did you do, if</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>	<p>Page 217</p> <p style="text-align: right;">MARTIN BORUTTA 217</p> <p>1 that computer has been used, correct?</p> <p>2 MR. KLASS: Object to the form.</p> <p>3 A. I have the computer in my possession. You asked</p> <p>4 the question, and yes, I have the computer in my</p> <p>5 possession.</p> <p>6 Q. (By Ms. Gessner) So again, you didn't need the</p> <p>7 computer back in order for someone else to use it</p> <p>8 because you've kept it in your drawer the entire</p> <p>9 time since it was returned, correct?</p> <p>10 MR. KLASS: Object to the form.</p> <p>11 A. It's not correct.</p> <p>12 Q. (By Ms. Gessner) Well, you just testified that you</p> <p>13 hadn't touched it and used it since it was</p> <p>14 returned?</p> <p>15 A. Yeah, but you asked me whether I didn't need it.</p> <p>16 That's not correct. I didn't touch it, but I got</p> <p>17 it back so late that I had to bring over another</p> <p>18 computer for me to use in the U.S. from Germany.</p> <p>19 So that's why your question was not correct.</p> <p>20 Q. Teupen is a \$12.4 million company, isn't it?</p> <p>21 MR. KLASS: Object to the form.</p> <p>22 A. It's between 10 and 20 million in sales, yeah,</p> <p>23 Teupen USA. Yes.</p> <p>24 Q. (By Ms. Gessner) And what's the net profit of</p> <p>25 Teupen?</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>

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<p>Sheet 56 Page 218</p> <p style="text-align: right;">MARTIN BORUTTA 218</p> <p>1 MR. KLASS: Object to the form.</p> <p>2 A. That depends which year you are referring to.</p> <p>3 Q. (By Ms. Gessner) In 2020 what was the net profit?</p> <p>4 A. \$150,000, \$180,000, something like that.</p> <p>5 Q. In 2021 what's the net profit year to date?</p> <p>6 MR. KLASS: Object to the form.</p> <p>7 A. I don't know exactly.</p> <p>8 Q. (By Ms. Gessner) How do you manage the books in --</p> <p>9 or do you get any type of accounting reports each</p> <p>10 quarter for Teupen?</p> <p>11 A. Yeah, I get them.</p> <p>12 Q. On your bAllence sheet, what was your profit for</p> <p>13 through quarter three, through the end of</p> <p>14 September?</p> <p>15 A. I don't remember.</p> <p>16 Q. Is it your testimony there was not another single</p> <p>17 computer that you could use other than the one that</p> <p>18 Ms. Acevedo had from the time -- from March of 2020</p> <p>19 until May of 2020 when you received it back?</p> <p>20 A. My testimony is that I didn't use the computer</p> <p>21 because, first of all, we got it back late and,</p> <p>22 second of all, I already brought it from Germany</p> <p>23 and I didn't want to use it afterwards to preserve</p> <p>24 it. That's why it's in the drawer.</p> <p>25 Q. So even if you'd received it you were going to use</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>	<p>Page 220</p> <p style="text-align: right;">MARTIN BORUTTA 220</p> <p>1 terminated?</p> <p>2 MR. KLASS: Object to the form.</p> <p>3 A. (No response.)</p> <p>4 Q. (By Ms. Gessner) Do you understand my question?</p> <p>5 A. I don't know if I can confirm that. I don't know.</p> <p>6 I am not an IT specialist.</p> <p>7 Q. But again, what action did you take to make sure</p> <p>8 the person who does know how to preserve the data</p> <p>9 could do that?</p> <p>10 MR. KLASS: Object to the form.</p> <p>11 A. I informed the persons about your litigation hold</p> <p>12 memo and they used it or they agreed to do it, so</p> <p>13 yeah, I got to be sure that it is what it is what</p> <p>14 you requested.</p> <p>15 Q. (By Ms. Gessner) At some point you became aware</p> <p>16 that my office had reached out to your registered</p> <p>17 agent, Parker Poe, asking them whether or not they</p> <p>18 would accept the return of Ms. Acevedo's phone and</p> <p>19 computer, correct?</p> <p>20 MR. KLASS: Object to the form.</p> <p>21 A. No, that --</p> <p>22 Q. (By Ms. Gessner) Parker Poe was Teupen's registered</p> <p>23 agent with the Secretary of State, correct?</p> <p>24 A. That question is correct.</p> <p>25 Q. And they were the registered agent through the end</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>
<p>Page 219</p> <p style="text-align: right;">MARTIN BORUTTA 219</p> <p>1 it?</p> <p>2 MR. KLASS: Object to the form.</p> <p>3 A. I would have used it maybe for me for accounting,</p> <p>4 but I got another one, so --</p> <p>5 Q. (By Ms. Gessner) How would you have preserved the</p> <p>6 hard drive as you were required to do according to</p> <p>7 the litigation hold notice and still use the</p> <p>8 computer?</p> <p>9 MR. KLASS: Object to the form.</p> <p>10 A. The hard drive is still the same hard drive. We</p> <p>11 just add another user, so there is no damage, no</p> <p>12 release, nothing on the hard drive.</p> <p>13 Q. (By Ms. Gessner) You understand that when you turn</p> <p>14 on a computer it leaves a date and time stamp so</p> <p>15 that someone can actually see exactly when the</p> <p>16 computer was used itself, even if it's connected to</p> <p>17 a system?</p> <p>18 MR. KLASS: Object to the form.</p> <p>19 A. Yeah, yeah, I understand that.</p> <p>20 Q. (By Ms. Gessner) It's your testimony you've</p> <p>21 preserved all that data so that we can see exactly</p> <p>22 when both of these computers have been turned on</p> <p>23 and off --</p> <p>24 MR. KLASS: Object to the form.</p> <p>25 Q. (By Ms. Gessner) -- after Ms. Acevedo was</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>	<p>Page 221</p> <p style="text-align: right;">MARTIN BORUTTA 221</p> <p>1 of 2020, correct?</p> <p>2 A. That is correct.</p> <p>3 Q. And you became aware that I had reached out, my</p> <p>4 office had reached out to Parker Poe attempting to</p> <p>5 return the computer and the phone and we were told</p> <p>6 they were not allowed to accept it. You're aware</p> <p>7 of that, aren't you?</p> <p>8 MR. KLASS: Object to the form.</p> <p>9 A. No, I'm not aware of that.</p> <p>10 Q. (By Ms. Gessner) Have you not read the pleadings in</p> <p>11 this case, Mr. Borutta?</p> <p>12 MR. KLASS: Object to the form.</p> <p>13 A. I'm not aware of that.</p> <p>14 Q. (By Ms. Gessner) Is that because you have not read</p> <p>15 the pleadings in this case?</p> <p>16 MR. KLASS: Object to the form.</p> <p>17 A. I don't know.</p> <p>18 Q. (By Ms. Gessner) Mr. Borutta, since your lawyer</p> <p>19 really is becoming incredibly annoying, he's</p> <p>20 objecting because -- Mr. Borutta, are you aware</p> <p>21 what a pleading is?</p> <p>22 A. No. I didn't read the pleadings.</p> <p>23 Q. So you do know what a pleading is?</p> <p>24 A. No, I don't know what is a pleading is. That's</p> <p>25 what I said.</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>

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<p>Sheet 57 Page 222</p> <p style="text-align: right;">MARTIN BORUTTA 222</p> <p>1 Q. Have you read the documents that have been filed</p> <p>2 with the court in this matter?</p> <p>3 MR. KLASS: Object to the form.</p> <p>4 A. Maybe a long time ago, yes, and maybe I understood</p> <p>5 them, but --</p> <p>6 Q. (By Ms. Gessner) And so here under oath, under</p> <p>7 penalty of perjury, no one has made you aware that</p> <p>8 my office contacted Parker Poe in order to</p> <p>9 determine whether or not they would accept the</p> <p>10 computer and the phone on your behalf?</p> <p>11 MR. KLASS: Object to the form.</p> <p>12 A. It's not to my -- it's not to my knowledge that you</p> <p>13 contacted Parker Poe because I informed Parker Poe</p> <p>14 at January 6 or 7 that they are not leading counsel</p> <p>15 for us and they knew about it, so that's all I know</p> <p>16 and that's why I cannot confirm. But I don't know</p> <p>17 whether your office contacted them or not, and you</p> <p>18 asked me. No, I don't know.</p> <p>19 Q. (By Ms. Gessner) I'll show you an email to show</p> <p>20 that we contacted Parker Poe. Again, what loss</p> <p>21 have you suffered other than not being able to use</p> <p>22 the computer now that you've put in a desk drawer</p> <p>23 from January of 2020 to May of 2020 regarding the</p> <p>24 computer?</p> <p>25 MR. KLASS: Object to the form.</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>	<p>Page 224</p> <p style="text-align: right;">MARTIN BORUTTA 224</p> <p>1 A. You put two questions in one. I don't know whether</p> <p>2 your office reached out to them returning the</p> <p>3 computer and the phone, so I --</p> <p>4 Q. (By Ms. Gessner) Did Parker Poe reach out to you</p> <p>5 asking whether or not you were going to hire them</p> <p>6 to represent you in this case?</p> <p>7 A. Parker Poe informed beginning of January 2020 that</p> <p>8 they received the litigation hold letter from you</p> <p>9 and they asked me because -- and I told them no,</p> <p>10 they are not representing Teupen the same day.</p> <p>11 That's all I know.</p> <p>12 Q. So it's your testimony no one from Parker Poe told</p> <p>13 you that we had offered to give them the computer</p> <p>14 and phone to get it to you?</p> <p>15 A. Yeah, that's my testimony, because I was never</p> <p>16 contacted from Parker Poe that we get our phone and</p> <p>17 the computer back.</p> <p>18 Q. And, Mr. Borutta, you never sent any prepaid boxes</p> <p>19 or any type of courier or anyone to either my</p> <p>20 office or Ms. Acevedo's home to collect your</p> <p>21 computer or phone, correct?</p> <p>22 A. No, we did not, because we did not know where the</p> <p>23 computer and the phone are, so where would --</p> <p>24 Q. So you made no attempts to learn where the computer</p> <p>25 or phone were or to get it returned on your cost,</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>
<p>Page 223</p> <p style="text-align: right;">MARTIN BORUTTA 223</p> <p>1 A. I don't know. We have to determine the loss.</p> <p>2 Q. (By Ms. Gessner) Well, no, sitting here today is it</p> <p>3 that you have zero loss?</p> <p>4 MR. KLASS: Object to the form.</p> <p>5 A. I said before we had to bring over another</p> <p>6 computer, so -- and bought another computer. I</p> <p>7 don't know what the loss is for that, so --</p> <p>8 Q. (By Ms. Gessner) Again, when you bought another</p> <p>9 computer, you now have two computers that anyone</p> <p>10 can use that you delegate, correct?</p> <p>11 MR. KLASS: Object to the form.</p> <p>12 A. Now I have one old computer and one additional one,</p> <p>13 yes, so there will be a loss, but that has to be</p> <p>14 determined.</p> <p>15 Q. (By Ms. Gessner) Have you done anything independent</p> <p>16 to determine how much Teupen has lost, allegedly</p> <p>17 lost as a result of not having its computer</p> <p>18 returned to it between January and May of 2020?</p> <p>19 A. Not yet.</p> <p>20 Q. Did Parker Poe contact you to determine -- there</p> <p>21 was no privilege relationship. Did they contact</p> <p>22 you to see if you were going hire them once my</p> <p>23 office reached out to them asking them whether or</p> <p>24 not they would accept the computer and phone?</p> <p>25 MR. KLASS: Object to the form.</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>	<p>Page 225</p> <p style="text-align: right;">MARTIN BORUTTA 225</p> <p>1 did you?</p> <p>2 MR. KLASS: Object to the form.</p> <p>3 A. I requested you to return our stuff, to get it back</p> <p>4 to Teupen. Ms. Gessner, you remember. You just</p> <p>5 need to read your emails, and that's all we did.</p> <p>6 Q. (By Ms. Gessner) Do you have any email in your</p> <p>7 possession that you listed out every single thing</p> <p>8 that you claimed Ms. Acevedo had that you sent to</p> <p>9 me?</p> <p>10 A. Yeah. It says company property, so what is not</p> <p>11 clear, company property?</p> <p>12 Q. Again, do you have an email where you say I must</p> <p>13 have my computer and phone because it's going to</p> <p>14 cause me damage if I don't get it returned?</p> <p>15 MR. KLASS: Object to the form.</p> <p>16 Q. (By Ms. Gessner) Isn't it true, Mr. Borutta --</p> <p>17 MS. GESSNER: Strike that.</p> <p>18 Q. (By Ms. Gessner) Isn't it true, Mr. Borutta, I</p> <p>19 expressly asked you for a list of items and you</p> <p>20 refused to give it?</p> <p>21 MR. KLASS: Object to the form.</p> <p>22 A. Please -- can you please rephrase? You said isn't</p> <p>23 it true again.</p> <p>24 Q. (By Ms. Gessner) Mr. Borutta, isn't it true that I</p> <p>25 expressly asked you in an email to list all of the</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>

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<p>Sheet 58 Page 226</p> <p style="text-align: right;">MARTIN BORUTTA 226</p> <p>1 things that you were claiming Ms. Acevedo had and</p> <p>2 you refused to provide a list?</p> <p>3 MR. KLASS: Object to the form.</p> <p>4 A. I did not provide you a list. I -- I asked for</p> <p>5 company property. That's all I did.</p> <p>6 Q. (By Ms. Gessner) And I specifically asked you to</p> <p>7 tell us exactly what the company property was so</p> <p>8 that we could make sure that every single thing</p> <p>9 that you were claiming Ms. Acevedo had was returned</p> <p>10 to you, and you refused to provide a response</p> <p>11 detailing exactly what it is that you claimed was</p> <p>12 missing, isn't that true?</p> <p>13 MR. KLASS: Object to the form.</p> <p>14 A. I did not send you a list about company property.</p> <p>15 That is correct.</p> <p>16 Q. (By Ms. Gessner) I'm going to show you what we're</p> <p>17 marking as Exhibit 17. You've seen this email</p> <p>18 exchange before, Mr. Borutta?</p> <p>19 A. I think so.</p> <p>20 Q. In it you say on January 14, "Ms. Gessner, your</p> <p>21 client got the detailed list of company property</p> <p>22 with her termination paperwork. I made an amicable</p> <p>23 offer and I am are talking about facts that can be</p> <p>24 easily witnessed. Our accounting is wrong since</p> <p>25 Ms. Acevedo took over the task can easily be</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>	<p>Page 228</p> <p style="text-align: right;">MARTIN BORUTTA 228</p> <p>1 Q. (By Ms. Gessner) Well, Mr. Borutta, you knew she</p> <p>2 was represented by counsel. At no time did you ask</p> <p>3 me even how many computers does she have; we'll be</p> <p>4 happy to come pick them up. At no point did you</p> <p>5 provide any detailed information, did you?</p> <p>6 MR. KLASS: Object to the form.</p> <p>7 A. I told company property. That should be clear.</p> <p>8 That's all it owned or is owned by the company,</p> <p>9 so --</p> <p>10 Q. (By Ms. Gessner) Mr. Borutta --</p> <p>11 A. Yeah.</p> <p>12 Q. -- my email was also incredibly clear. "Please</p> <p>13 provide me a detailed list of what document and</p> <p>14 property you deem are missing." I specifically and</p> <p>15 expressly asked you for a detailed list and you</p> <p>16 refused to provide it; isn't that accurate?</p> <p>17 MR. KLASS: Object to the form.</p> <p>18 Q. (By Ms. Gessner) Let me refresh your recollection</p> <p>19 with your email. You did not provide me with a</p> <p>20 detailed list as I expressly requested from you,</p> <p>21 did you?</p> <p>22 MR. KLASS: Object to the form.</p> <p>23 Q. (By Ms. Gessner) You can answer it.</p> <p>24 A. I did not provide you with a detailed list. I</p> <p>25 asked for company property.</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>
<p>Page 227</p> <p style="text-align: right;">MARTIN BORUTTA 227</p> <p>1 witnessed. I stay with my opinion, frivolous</p> <p>2 litigation." Yet I am expressly asking you to give</p> <p>3 us a detailed -- "provide me a detailed list of</p> <p>4 what documents and property you deem are missing</p> <p>5 and I will check with my client. In light of your</p> <p>6 unwillingness to resolve this matter amicably we</p> <p>7 are left with no choice but to proceed with</p> <p>8 litigation."</p> <p>9 At no point in time did you provide me, my</p> <p>10 office, her lawyer, with a detailed list of any</p> <p>11 company property that you claimed was missing, did</p> <p>12 you?</p> <p>13 MR. KLASS: Object to the form.</p> <p>14 A. I did not provide your list. I asked for company</p> <p>15 property. That's all I did.</p> <p>16 Q. (By Ms. Gessner) And you didn't do anything else at</p> <p>17 all to try to obtain the computer or the phone like</p> <p>18 sending a FedEx envelope to my office or to</p> <p>19 Ms. Acevedo or a courier or have any further</p> <p>20 communication in an attempt to make sure that that</p> <p>21 computer was returned, is that correct?</p> <p>22 A. I do not know which big the box should be because I</p> <p>23 did not know how many computers Ms. Acevedo had.</p> <p>24 She had a key to the office, so she could have two</p> <p>25 computers as well, and seven boxes, so --</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>	<p>Page 229</p> <p style="text-align: right;">MARTIN BORUTTA 229</p> <p>1 Q. And, Mr. Borutta, again you aren't claiming that</p> <p>2 somehow Ms. Acevedo did anything to or with your</p> <p>3 computer, are you?</p> <p>4 MR. KLASS: Object to the form.</p> <p>5 A. I don't know.</p> <p>6 Q. (By Ms. Gessner) You haven't looked, have you?</p> <p>7 A. You asked that before.</p> <p>8 Q. Is that a no, you didn't even look to see if there</p> <p>9 was any harm or damage to the computer before you</p> <p>10 filed a frivolous lawsuit against her?</p> <p>11 MR. KLASS: Object to the form.</p> <p>12 A. That's a question I cannot answer because I did not</p> <p>13 file a frivolous lawsuit. I just filed a lawsuit</p> <p>14 because I didn't get my company property,</p> <p>15 Ms. Gessner.</p> <p>16 Q. (By Ms. Gessner) But when you got the company</p> <p>17 property back you did nothing to inspect it in any</p> <p>18 way, did you?</p> <p>19 MR. KLASS: Object to the form.</p> <p>20 A. From the outside, and I only got the computer back.</p> <p>21 I did not get the phone back, so we're still</p> <p>22 talking about the phone. But the computer looks to</p> <p>23 be intact.</p> <p>24 Q. (By Ms. Gessner) Mr. Borutta, this is what you've</p> <p>25 done all day. I didn't ask you anything about the</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>

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<p>Sheet 59 Page 230</p> <p style="text-align: right;">MARTIN BORUTTA 230</p> <p>1 phone. We're talking about the computer. You're</p> <p>2 putting --</p> <p>3 A. No. You said --</p> <p>4 Q. We haven't even gotten there yet. Stick with the</p> <p>5 computer. You didn't turn on the computer to</p> <p>6 determine whether or not Ms. Acevedo had even</p> <p>7 touched the computer, did you?</p> <p>8 MR. KLASS: Object to the form.</p> <p>9 A. No, because we -- the computer --</p> <p>10 Q. (By Ms. Gessner) That's a no? I think that was no,</p> <p>11 is that right, Mr. Borutta? That's a no?</p> <p>12 MR. KLASS: Object to form.</p> <p>13 A. It completely cannot be turned on because then we</p> <p>14 would damage your image or your backup of the hard</p> <p>15 drive. Very interesting.</p> <p>16 Q. (By Ms. Gessner) Well, you haven't given me a</p> <p>17 backup yet. We've asked for it and it hasn't been</p> <p>18 received.</p> <p>19 MR. KLASS: Object to the form. Can</p> <p>20 we take a break?</p> <p>21 MS. GESSNER: Not just yet. I've</p> <p>22 got two more questions along just line.</p> <p>23 MR. KLASS: Okay.</p> <p>24 Q. (By Ms. Gessner) When did you first -- I don't want</p> <p>25 to know about what your lawyer said or what you</p> <p style="text-align: right;">www.thompsonmi 1 1 s.com</p>	<p>Page 232</p> <p style="text-align: right;">MARTIN BORUTTA 232</p> <p>1 A. I did not contact Parker Poe. That's what I said</p> <p>2 before. No.</p> <p>3 Q. Did you contact anyone prior to hiring Fisher</p> <p>4 Phillips about filing a lawsuit against</p> <p>5 Ms. Acevedo?</p> <p>6 A. I don't remember.</p> <p>7 Q. Is there anything that would refresh your</p> <p>8 recollection whether you called a lawyer about</p> <p>9 filing a lawsuit against Ms. Acevedo?</p> <p>10 A. If you have anything that would refresh my memory,</p> <p>11 maybe, but I don't remember.</p> <p>12 Q. I'm asking you whether anything exists that would</p> <p>13 refresh your memory. You're the one who keeps</p> <p>14 saying I don't know.</p> <p>15 A. Yeah, but I don't know. It's two years ago.</p> <p>16 MS. GESSNER: We can take that break</p> <p>17 for just a minute. How about 10 minutes,</p> <p>18 David?</p> <p>19 MR. KLASS: That'll work. Thank</p> <p>20 you.</p> <p>21 (RECESS)</p> <p>22 Q. (By Ms. Gessner) Mr. Borutta, Teupen has sued --</p> <p>23 well, let me ask a question. Teupen is your</p> <p>24 company, right?</p> <p>25 MR. KLASS: Object to the form.</p> <p style="text-align: right;">www.thompsonmi 1 1 s.com</p>
<p>Page 231</p> <p style="text-align: right;">MARTIN BORUTTA 231</p> <p>1 said to your lawyer, but when did you first contact</p> <p>2 your lawyer about filing a counterclaim against</p> <p>3 Ms. Acevedo?</p> <p>4 A. I don't remember.</p> <p>5 Q. Was it before Ms. Acevedo had filed the lawsuit</p> <p>6 against Teupen?</p> <p>7 MR. KLASS: Object to the form.</p> <p>8 A. I don't remember, Ms. Gessner.</p> <p>9 Q. (By Ms. Gessner) Did you contact any other lawyers</p> <p>10 other than Fisher Phillips about filing a lawsuit</p> <p>11 against Ms. Acevedo?</p> <p>12 A. I don't remember. That's --</p> <p>13 Q. Do you use more than one telephone to make phone</p> <p>14 calls, Mr. Borutta?</p> <p>15 A. Yes.</p> <p>16 Q. Do you have multiple cell phones?</p> <p>17 A. Yes.</p> <p>18 Q. What are their numbers?</p> <p>19 A. Which numbers? The U.S. number?</p> <p>20 Q. Yes. We'll start there.</p> <p>21 A. 864-979-7723.</p> <p>22 Q. Do you have any other U.S. telephone numbers?</p> <p>23 A. No, I don't think so.</p> <p>24 Q. Mr. Borutta, did you at any time contact Parker Poe</p> <p>25 about filing a counterclaim against Ms. Acevedo?</p> <p style="text-align: right;">www.thompsonmi 1 1 s.com</p>	<p>Page 233</p> <p style="text-align: right;">MARTIN BORUTTA 233</p> <p>1 A. I'm the single largest shareholder.</p> <p>2 Q. (By Ms. Gessner) Who are your other shareholders?</p> <p>3 A. A private equity company in Germany.</p> <p>4 Q. You are involved in the day-to-day operations of</p> <p>5 the business, correct?</p> <p>6 A. Not really. I am the CEO of the group, so I</p> <p>7 oversee the operations for them. I'm not involved</p> <p>8 in daily business.</p> <p>9 Q. Was it your decision to pursue the litigation</p> <p>10 against Ms. Acevedo?</p> <p>11 A. What does pursue mean, please?</p> <p>12 Q. Was it your decision to file the counterclaim</p> <p>13 against Ms. Acevedo?</p> <p>14 A. As I told you in the emails, it was my</p> <p>15 understanding of a legal action. It's correct</p> <p>16 that's what we did.</p> <p>17 Q. But it was your decision alone, not anyone else at</p> <p>18 Teupen; only you are the one who decided to file</p> <p>19 the lawsuit against Ms. Acevedo, correct?</p> <p>20 A. Yeah, that is my decision alone.</p> <p>21 Q. And so to the extent that there are false claims</p> <p>22 that are made, it is you who are making those</p> <p>23 claims, correct?</p> <p>24 MR. KLASS: Object to the form.</p> <p>25 A. There are no false claims, so I cannot really</p> <p style="text-align: right;">www.thompsonmi 1 1 s.com</p>

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<p>Sheet 60 Page 234</p> <p style="text-align: right;">MARTIN BORUTTA 234</p> <p>1 correct give you an answer on that question.</p> <p>2 Q. (By Ms. Gessner) And to the extent there are false</p> <p>3 claims or the court deems that there are false</p> <p>4 claims, you were the one who decided to file the</p> <p>5 lawsuit, correct?</p> <p>6 MR. KLASS: Object to the form.</p> <p>7 A. I filed the lawsuit. That is correct.</p> <p>8 Q. (By Ms. Gessner) You have alleged in the</p> <p>9 counterclaim that Ms. Acevedo breached her</p> <p>10 employment contract. Are you aware of that?</p> <p>11 A. I cannot recall.</p> <p>12 Q. Let me show you the document. I'm showing you the</p> <p>13 amended counterclaim that you filed against</p> <p>14 Ms. Acevedo. I'm going to show you paragraph</p> <p>15 number 44. You have alleged that plaintiff emailed</p> <p>16 defendant's confidential information to her</p> <p>17 personal email account during her employment</p> <p>18 including but not limited to from December 15,</p> <p>19 2019, through December 30, 2019. Do you see that?</p> <p>20 A. Yes, I see that.</p> <p>21 Q. Are you aware of any emails that Ms. Acevedo</p> <p>22 forwarded to herself that were dealing with</p> <p>23 anything other than the way she was being treated</p> <p>24 at Teupen?</p> <p>25 A. I don't remember.</p> <p style="text-align: right;">www.thompsonmi 1 1 s.com</p>	<p>Page 236</p> <p style="text-align: right;">MARTIN BORUTTA 236</p> <p>1 Q. Do you recall looking at any emails that reflected</p> <p>2 information she sent to someone outside of Teupen</p> <p>3 before you filed this lawsuit against her?</p> <p>4 A. I think I did, but I don't remember. It's more</p> <p>5 than one year ago.</p> <p>6 Q. What do you think you remember seeing?</p> <p>7 A. That I looked at the emails, but I don't remember</p> <p>8 what I saw.</p> <p>9 Q. Have you produced to us every email that you claim</p> <p>10 supports your breach-of-contract claim as alleged</p> <p>11 in paragraph 44?</p> <p>12 A. I don't know. I think so.</p> <p>13 Q. Other than Ms. Acevedo's claims against Teupen for</p> <p>14 discrimination and for retaliation, you are not</p> <p>15 aware of any other email that Ms. Acevedo has sent</p> <p>16 to someone outside of Teupen with any confidential</p> <p>17 information, correct?</p> <p>18 MR. KLASS: Object to the form.</p> <p>19 A. I don't know.</p> <p>20 Q. (By Ms. Gessner) Well, have you done anything to</p> <p>21 look?</p> <p>22 A. As I said before, I cannot recall right now.</p> <p>23 That's one and a half years ago.</p> <p>24 Q. (By Ms. Gessner) Mr. Borutta, you have sued</p> <p>25 Ms. Acevedo claiming that she has stolen</p> <p style="text-align: right;">www.thompsonmi 1 1 s.com</p>
<p>Page 235</p> <p style="text-align: right;">MARTIN BORUTTA 235</p> <p>1 Q. Did you do anything to look at all of Ms. Acevedo's</p> <p>2 emails that she sent to herself to determine</p> <p>3 whether any of the emails that were sent were for</p> <p>4 any other purpose other than detailing how she was</p> <p>5 being treated?</p> <p>6 MR. KLASS: Object to the form.</p> <p>7 A. I don't remember.</p> <p>8 Q. (By Ms. Gessner) Before filing this counterclaim on</p> <p>9 November 20, 2020, against Ms. Acevedo, are you</p> <p>10 aware of a single email that she sent that</p> <p>11 pertained any confidential information to anyone</p> <p>12 other than herself?</p> <p>13 A. I don't remember. That's one year ago.</p> <p>14 Q. Well, have you done anything to look? Mr. Borutta,</p> <p>15 you've had access to Teupen's own email system the</p> <p>16 entire time, correct?</p> <p>17 A. I have access to the Teupen email system.</p> <p>18 Q. And you have access to all of the emails that</p> <p>19 Ms. Acevedo sent from her Teupen email address,</p> <p>20 correct?</p> <p>21 A. I should have access to that.</p> <p>22 Q. And have you ever found or seen an email that she</p> <p>23 sent to anyone other than herself that contained</p> <p>24 confidential information outside of Teupen?</p> <p>25 A. As I said before, I don't remember.</p> <p style="text-align: right;">www.thompsonmi 1 1 s.com</p>	<p>Page 237</p> <p style="text-align: right;">MARTIN BORUTTA 237</p> <p>1 confidential information. Can you tell me a single</p> <p>2 piece of confidential information she has stolen?</p> <p>3 MR. KLASS: Object to the form.</p> <p>4 A. I cannot recall right now.</p> <p>5 Q. (By Ms. Gessner) Can you recall anything that you</p> <p>6 would deem as confidential information that</p> <p>7 Ms. Acevedo took with her from Teupen that wasn't</p> <p>8 for her use in this lawsuit?</p> <p>9 MR. KLASS: Object to the form.</p> <p>10 A. I don't remember, actually.</p> <p>11 Q. (By Ms. Gessner) Are you aware of Ms. Acevedo</p> <p>12 selling or giving any information to any of</p> <p>13 Teupen's competitors?</p> <p>14 A. I don't know.</p> <p>15 Q. Well, do you think you'd be aware of that by now?</p> <p>16 A. I don't know.</p> <p>17 Q. You're not aware of Ms. Teupen (sic) using any of</p> <p>18 Teupen's information to start a company of her own,</p> <p>19 correct?</p> <p>20 A. I don't know.</p> <p>21 Q. What harm or damage do you allege Ms. Acevedo</p> <p>22 caused the company by forwarding some of her emails</p> <p>23 to her personal account to reflect how she was</p> <p>24 being treated in this case?</p> <p>25 MR. KLASS: Object to the form.</p> <p style="text-align: right;">www.thompsonmi 1 1 s.com</p>

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<p>Sheet 61 Page 238</p> <p style="text-align: right;">MARTIN BORUTTA 238</p> <p>1 A. It's my understanding if it's -- or it was 2 confidential information it's a breach of contract. 3 That is the harm, so -- 4 Q. (By Ms. Gessner) Well, at the time that you 5 terminated Ms. Acevedo you had in your possession 6 every single email she had sent to herself, 7 correct? 8 A. I don't know. I think so. 9 Q. Well, let's just break it down. When you say I 10 don't know it doesn't make common sense when I'm 11 asking this question, Mr. Borutta, so let me help 12 you. You are the only person who had access to 13 everybody else's email at Teupen if you wanted it, 14 correct? 15 MR. KLASS: Object to the form. 16 A. If I wanted I could have access to everybody's 17 email at Teupen. That is correct. 18 Q. (By Ms. Gessner) On January 3 when you decided to 19 terminate Ms. Acevedo you had the ability to turn 20 off her email, correct? 21 MR. KLASS: Object to the form. 22 A. Yeah, I had the ability to turn off her email. 23 Q. (By Ms. Gessner) And therefore you had the ability 24 to see every email that she had sent on Teupen's 25 system through her termination date, correct? www.thompsonmi 1 1 s.com</p>	<p>Page 240</p> <p style="text-align: right;">MARTIN BORUTTA 240</p> <p>1 that? 2 A. I see that. 3 Q. That was the first amended complaint. You see 4 that? 5 A. Yeah. I see March -- 6 Q. Let me show you the actual original complaint since 7 you haven't seen these pleadings before. 8 A. I didn't say I haven't seen them. I said I don't 9 remember. I can't recall as I've seen them or not. 10 Q. But again, you did not accuse Ms. Acevedo of 11 breaching her contract until after she had filed a 12 lawsuit against Teupen, correct? 13 MR. KLASS: Object to the form. 14 A. I don't -- don't know. 15 Q. (By Ms. Gessner) Has any other employee filed a 16 lawsuit against Teupen? 17 A. We had that question. 18 Q. I'm asking you again. Please answer it. 19 MR. KLASS: Object to the form. 20 A. I told -- I told you not of my knowledge. I think 21 it was Mr. Kesser and maybe Mr. Taft, but I'm not 22 sure. 23 Q. (By Ms. Gessner) Did you file a counterclaim 24 against Mr. Kesser? 25 A. No. www.thompsonmi 1 1 s.com</p>
<p>Page 239</p> <p style="text-align: right;">MARTIN BORUTTA 239</p> <p>1 A. Yeah, that's correct. 2 Q. So any email that she sent that you would claim is 3 a breach of contract, you knew about it before you 4 fired her, correct? 5 MR. KLASS: Object to the form. 6 A. I didn't not know about it because I didn't read 7 her emails, so how would I know about it? 8 Q. (By Ms. Gessner) You could have known about it if 9 you had you chosen to read her emails, correct? 10 A. I could have known about it would be the right 11 answer. Yes. 12 Q. Yet you still didn't terminate her with cause; you 13 didn't accuse her of breach of contract until after 14 she had sued Teupen, correct? 15 MR. KLASS: Object to the form. 16 A. I don't remember in which time. Yeah. Sorry. 17 Q. (By Ms. Gessner) Well, had Teupen been sued in this 18 case before November 20, 2020? 19 A. Sorry. Please ask it again. 20 Q. Had Teupen been sued in this lawsuit before 21 November 20, 2020? 22 A. I don't recall when the lawsuit started. 23 Q. Okay. Let me refresh your recollection. I'm 24 showing you the first amended complaint in this 25 case, which is dated March 9, 2021. Do you see www.thompsonmi 1 1 s.com</p>	<p>Page 241</p> <p style="text-align: right;">MARTIN BORUTTA 241</p> <p>1 Q. You didn't, did you? 2 MR. KLASS: Object to the form. 3 Q. (By Ms. Gessner) Did you file a counterclaim 4 against Mr. Taft? 5 A. He didn't file a claim, I think, so -- so we didn't 6 file a counterclaim. 7 Q. Can you see the complaint on your screen now and 8 see that the date that it was filed is 9 September 21, 2020? Do you see complaint? 10 A. I see a date and I see a document, so what do you 11 want me to do with that document? 12 Q. I want you to testify what you see on the screen, 13 Mr. Borutta. Do you see a document that has got 14 civil action number 3:20-cv-518 at the top on your 15 screen? 16 A. I see the top of that document. That is correct. 17 Q. Do you see the word complaint to the right? 18 A. Yes. 19 Q. Do you see Marjorie Acevedo, plaintiff, versus 20 Teupen North America, defendant, on the left? 21 A. Yes, I see it. 22 Q. Do you see the file stamp at the bottom, the blue 23 lettering that has the case number, the document 24 number, and a date? 25 A. Yes. www.thompsonmi 1 1 s.com</p>

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<p>Sheet 62 Page 242</p> <p style="text-align: right;">MARTIN BORUTTA 242</p> <p>1 Q. And September 21, 2020, is earlier than November of</p> <p>2 2020, correct?</p> <p>3 A. Yeah.</p> <p>4 Q. So you didn't file the counterclaims against</p> <p>5 Ms. Acevedo until after she had filed the complaint</p> <p>6 against Teupen, correct?</p> <p>7 A. It looks like.</p> <p>8 Q. And you didn't accuse her of breach of contract of</p> <p>9 any sort until after you had deemed that she was</p> <p>10 terminated without cause; you didn't give her 30</p> <p>11 days' notice and paid her the severance out of the</p> <p>12 contract, correct?</p> <p>13 MR. KLASS: Object to the form.</p> <p>14 A. I -- you got to ask -- there were two questions in</p> <p>15 one. Please ask one question. Otherwise I don't</p> <p>16 understand you.</p> <p>17 Q. (By Ms. Gessner) Do you pay employees their</p> <p>18 severance that you claim have breached their</p> <p>19 confidentiality provisions of the agreement?</p> <p>20 MR. KLASS: Object to the form.</p> <p>21 A. You know, funny enough that I was gentle to pay</p> <p>22 Ms. Acevedo severance without getting the paperwork</p> <p>23 back. I decided to be more friendly, and you tell</p> <p>24 me now the difference. So I paid it and I made it,</p> <p>25 so that's my fault to be separated from my</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>	<p>Page 244</p> <p style="text-align: right;">MARTIN BORUTTA 244</p> <p>1 business in the U.S. and I am traveling between</p> <p>2 Europe and U.S. two to three times a month. So I</p> <p>3 remember when I received a laptop or when I get a</p> <p>4 letter or when I wrote a letter?</p> <p>5 Q. Well, are you aware when your lawyers received the</p> <p>6 laptop on your behalf, Mr. Borutta?</p> <p>7 A. No. No.</p> <p>8 Q. You have no idea?</p> <p>9 A. I have no idea.</p> <p>10 Q. So it was so important to you that you had to file</p> <p>11 a lawsuit against Ms. Acevedo but you don't even</p> <p>12 know when you got it back?</p> <p>13 MR. KLASS: Object to the form.</p> <p>14 A. I don't know when I got it back because after I had</p> <p>15 everything done, things go where they have to go,</p> <p>16 so it doesn't matter. I didn't get it back when I</p> <p>17 asked for it.</p> <p>18 Q. (By Ms. Gessner) Well, you never asked for it, did</p> <p>19 you? You didn't provide a detailed list of any of</p> <p>20 the items that you claim that Ms. Acevedo had in</p> <p>21 her possession, did you?</p> <p>22 MR. KLASS: Form.</p> <p>23 A. That is your company property. I asked for company</p> <p>24 property. That's correct.</p> <p>25 Q. (By Ms. Gessner) Despite being repeatedly asked,</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>
<p>Page 243</p> <p style="text-align: right;">MARTIN BORUTTA 243</p> <p>1 employee. So it was my decision not to terminate</p> <p>2 her for cause, so I didn't do it and paid</p> <p>3 severance.</p> <p>4 Q. No, you just terminated her and sued her, correct?</p> <p>5 MR. KLASS: Object to the form.</p> <p>6 A. First of all I terminated her and paid her the</p> <p>7 severance payment.</p> <p>8 Q. (By Ms. Gessner) And then you sued her, correct?</p> <p>9 A. Afterwards, because I could not get my property.</p> <p>10 Q. You had your property in your possession as early</p> <p>11 as May of 2020, correct?</p> <p>12 MR. KLASS: Object to the form.</p> <p>13 A. I don't know when we get the property back.</p> <p>14 Q. (By Ms. Gessner) Well, let's mark that</p> <p>15 communication as well. Do you have any idea when</p> <p>16 you received the computer from your lawyer at</p> <p>17 Fisher Phillips?</p> <p>18 A. No.</p> <p>19 Q. Was it last month?</p> <p>20 A. I have no idea. Sorry.</p> <p>21 Q. You have no idea when you received the computer</p> <p>22 from your lawyer?</p> <p>23 A. You know, I think -- I think you don't know my</p> <p>24 background what I'm doing, so sometimes -- I'm</p> <p>25 running a 200-people company and that is part of my</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>	<p>Page 245</p> <p style="text-align: right;">MARTIN BORUTTA 245</p> <p>1 you never provided a list of what company property</p> <p>2 you were referring to, did you?</p> <p>3 MR. KLASS: Form.</p> <p>4 A. I don't know. I didn't provide a list. I provided</p> <p>5 the information I want to have company property</p> <p>6 back.</p> <p>7 Q. (By Ms. Gessner) I'll find that email at a break</p> <p>8 and mark it so that you can make sure that you know</p> <p>9 exactly when your lawyers received it. Okay.</p> <p>10 Let's talk about, did you discuss filing a</p> <p>11 lawsuit against Ms. Acevedo with anyone other than</p> <p>12 your lawyers?</p> <p>13 A. I don't remember.</p> <p>14 Q. Did you file a lawsuit against Mr. Kesser when he</p> <p>15 had his computer in his possession when he left the</p> <p>16 company?</p> <p>17 A. Mr. Kesser returned his computer pretty fast when I</p> <p>18 recall correctly, but I don't know because it's</p> <p>19 more than three years ago.</p> <p>20 Q. Is there any employee between you taking over North</p> <p>21 America as the CEO to present that you had sued for</p> <p>22 not returning their computer fast enough?</p> <p>23 A. Nobody company property, so I didn't have to --</p> <p>24 Q. That's not my question. Mr. Borutta, you're not</p> <p>25 being responsive. Is that a no, there's not</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>

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<p>Sheet 63 Page 246</p> <p style="text-align: right;">MARTIN BORUTTA 246</p> <p>1 another single employee that you've ever filed a</p> <p>2 lawsuit against for not returning their computer</p> <p>3 soon enough other than Ms. Acevedo?</p> <p>4 MR. KLASS: Object to the form.</p> <p>5 A. I did not have to file a lawsuit because we didn't</p> <p>6 have that case, so --</p> <p>7 Q. (By Ms. Gessner) So is that a no?</p> <p>8 A. No, we didn't file a lawsuit because we didn't have</p> <p>9 to.</p> <p>10 Q. So it's your testimony that every single employee</p> <p>11 when terminated has immediately on the same day</p> <p>12 returned their computer?</p> <p>13 MR. KLASS: Object to the form.</p> <p>14 A. To my knowledge, yes.</p> <p>15 Q. (By Ms. Gessner) And if there are witnesses who say</p> <p>16 otherwise, you don't have reason to think they're</p> <p>17 lying, do you?</p> <p>18 MR. KLASS: Object to form.</p> <p>19 A. I don't know.</p> <p>20 Q. (By Ms. Gessner) Did Mr. Liebl return his computer</p> <p>21 on the same day you fired him?</p> <p>22 A. Yes. He didn't have a computer. He had terminal</p> <p>23 access, so --</p> <p>24 Q. He had what?</p> <p>25 A. He had just terminal access, so like a whatever.</p> <p style="text-align: right;">www.thompsonmi</p> <p style="text-align: right;">1</p> <p style="text-align: right;">1</p> <p style="text-align: right;">s.com</p>	<p>Page 248</p> <p style="text-align: right;">MARTIN BORUTTA 248</p> <p>1 Q. So you haven't calculated any damages before you</p> <p>2 filed the lawsuit?</p> <p>3 MR. KLASS: Object to the form.</p> <p>4 A. I did not calculate any damages yet. That's what I</p> <p>5 said.</p> <p>6 Q. (By Ms. Gessner) And this is the same computer that</p> <p>7 hasn't been used or touched since it was returned,</p> <p>8 correct?</p> <p>9 MR. KLASS: Object to the form.</p> <p>10 A. This is the computer that was in the possession of</p> <p>11 Ms. Acevedo, correct.</p> <p>12 Q. (By Ms. Gessner) And that you have not used it</p> <p>13 since it was returned, correct?</p> <p>14 MR. KLASS: Object to the form.</p> <p>15 A. I did not use it.</p> <p>16 Q. (By Ms. Gessner) And you haven't assigned it to</p> <p>17 someone else to use, have you?</p> <p>18 MR. KLASS: Object to the form.</p> <p>19 A. No. It's in a drawer.</p> <p>20 Q. (By Ms. Gessner) At some point you became aware</p> <p>21 that Ms. Acevedo you traded in her personal cell</p> <p>22 phone to upgrade to the phone that she currently</p> <p>23 has, correct?</p> <p>24 MR. KLASS: Object to the form.</p> <p>25 A. No, that is not correct.</p> <p style="text-align: right;">www.thompsonmi</p> <p style="text-align: right;">1</p> <p style="text-align: right;">1</p> <p style="text-align: right;">s.com</p>
<p>Page 247</p> <p style="text-align: right;">MARTIN BORUTTA 247</p> <p>1 He did not really have a computer.</p> <p>2 Q. How about, well, Mr. Kesser? On the day you fired</p> <p>3 him, he didn't turn his computer in on that same</p> <p>4 day, did he?</p> <p>5 A. I don't remember. It's two and a half years ago.</p> <p>6 Q. So isn't it true you don't know whether everybody</p> <p>7 turned it in on the same day or not, correct?</p> <p>8 MR. KLASS: Object to form.</p> <p>9 Q. (By Ms. Gessner) It's been so long ago you can't</p> <p>10 remember --</p> <p>11 MR. KLASS: Object to the form.</p> <p>12 Q. (By Ms. Gessner) -- is that right?</p> <p>13 A. I can't remember two and a half years.</p> <p>14 Q. And you can't tell me any way that Teupen had been</p> <p>15 damaged because it did not have Ms. Acevedo's</p> <p>16 computer in its possession on the day she was</p> <p>17 terminated?</p> <p>18 MR. KLASS: Object to the form.</p> <p>19 A. I said before we did not make a calculation for the</p> <p>20 damage yet.</p> <p>21 Q. (By Ms. Gessner) Who is we, we didn't make a damage</p> <p>22 calculation?</p> <p>23 A. Maybe me and maybe my CFO or whomever I give the</p> <p>24 job or I do it myself, whoever. So the company is</p> <p>25 we.</p> <p style="text-align: right;">www.thompsonmi</p> <p style="text-align: right;">1</p> <p style="text-align: right;">1</p> <p style="text-align: right;">s.com</p>	<p>Page 249</p> <p style="text-align: right;">MARTIN BORUTTA 249</p> <p>1 Q. (By Ms. Gessner) Well, tell me everything you can</p> <p>2 recall about Ms. Acevedo's cell phone that is the</p> <p>3 subject of your counterclaim.</p> <p>4 MR. KLASS: Object to the form.</p> <p>5 Q. (By Ms. Gessner) You understand my question, right,</p> <p>6 Mr. Borutta?</p> <p>7 A. Yeah, I understand your question, but your question</p> <p>8 is not a question. It's an assumption.</p> <p>9 Ms. Acevedo says that she turned her phone in. I</p> <p>10 don't know, and we couldn't find any documentation</p> <p>11 that she turned her private phone in to get a</p> <p>12 company phone and I did not grant her take the</p> <p>13 company phone with her either line, so that's what</p> <p>14 I can confirm.</p> <p>15 Q. So is it your testimony that there was no credit</p> <p>16 given to Teupen for Ms. Acevedo turning in her</p> <p>17 personal cell phone?</p> <p>18 A. I cannot confirm. That was before my operational</p> <p>19 time, so I don't know.</p> <p>20 Q. Okay. I'm going to mark an exhibit. I'm marking</p> <p>21 this as Exhibit 18 to your deposition. Have you</p> <p>22 seen this document before, Mr. Borutta?</p> <p>23 A. I don't remember.</p> <p>24 Q. It's Bates number 2100020 through 2100086. Do you</p> <p>25 see the number down at the bottom?</p> <p style="text-align: right;">www.thompsonmi</p> <p style="text-align: right;">1</p> <p style="text-align: right;">1</p> <p style="text-align: right;">s.com</p>

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<p>Sheet 64 Page 250</p> <p style="text-align: right;">MARTIN BORUTTA 250</p> <p>1 A. I see that number at the bottom.</p> <p>2 Q. Let's go to page 3. Do you see on this page that</p> <p>3 there is a device credit, it's a device credit for</p> <p>4 Ms. Acevedo's telephone for when she turned it in</p> <p>5 to Verizon?</p> <p>6 A. I don't see a device credit. Where is a device</p> <p>7 credit? Can I make it bigger?</p> <p>8 Q. Yeah. Here, I can make it bigger. So it says</p> <p>9 summary for Glen D-e-l-i-g-d-i-s-c-h, but you were</p> <p>10 aware that Ms. Acevedo's phone number was 201-912-</p> <p>11 5506, correct?</p> <p>12 A. No.</p> <p>13 Q. You dispute that that's her phone number?</p> <p>14 A. Look at the date, please. I am not aware of</p> <p>15 nothing on that, so look at the --</p> <p>16 Q. But, Mr. Borutta, did you have Ms. Acevedo's cell</p> <p>17 phone plugged into your own cell phone?</p> <p>18 A. I did what, please?</p> <p>19 Q. Did you have her saved as a contact in your cell</p> <p>20 phone?</p> <p>21 A. I don't know.</p> <p>22 Q. Do you still have your cell phone there present?</p> <p>23 A. I have my -- I do not have my cell phone here.</p> <p>24 Q. You don't have it on you?</p> <p>25 A. No.</p> <p style="text-align: right;">www.thompsonmi 1 1 s.com</p>	<p>Page 252</p> <p style="text-align: right;">MARTIN BORUTTA 252</p> <p>1 trading in her phone?</p> <p>2 A. That's what Ms. Acevedo says and we cannot confirm</p> <p>3 it because that bill does not say that she traded</p> <p>4 in her phone.</p> <p>5 Q. And you can't confirm or deny it, can you?</p> <p>6 MR. KLASS: Object to the form.</p> <p>7 A. (No response.)</p> <p>8 Q. (By Ms. Gessner) You can't confirm or deny it, can</p> <p>9 you, Mr. Borutta?</p> <p>10 A. I don't know. There was a trade-in of company</p> <p>11 phones, but --</p> <p>12 Q. So you just assumed that Ms. Acevedo had done</p> <p>13 something wrong with her cell phone whenever you</p> <p>14 filed the lawsuit against her, but you never</p> <p>15 verified for sure whether there was an actual</p> <p>16 claim, did you?</p> <p>17 MR. KLASS: Object to the form.</p> <p>18 Q. (By Ms. Gessner) Can you, Mr. Borutta?</p> <p>19 A. We tried to verify but there is no documentation</p> <p>20 and there is no documentation that Ms. Acevedo</p> <p>21 turned her phone in.</p> <p>22 Q. Well, let's look at page 58. These are Teupen's</p> <p>23 documents that were turned it -- that were produced</p> <p>24 to us, aren't they? They have your company's name</p> <p>25 and Bates number in the bottom right corner,</p> <p style="text-align: right;">www.thompsonmi 1 1 s.com</p>
<p>Page 251</p> <p style="text-align: right;">MARTIN BORUTTA 251</p> <p>1 Q. Okay. So what reason would you dispute that 201-</p> <p>2 912-5506 is Ms. Acevedo's telephone number?</p> <p>3 A. Because the statement says it's Glenn Deligdisch,</p> <p>4 so why should I -- and it's 2018. I cannot say</p> <p>5 anything. It's '18. Remember, I was operational</p> <p>6 working for Teupen from '19 on. I cannot say</p> <p>7 anything.</p> <p>8 Q. Do you see at the bottom there is a trade-in device</p> <p>9 promo credit of \$16.81 down at the bottom of</p> <p>10 Teupen --</p> <p>11 A. Yeah.</p> <p>12 Q. -- 21Teupen00021? Do you see that?</p> <p>13 A. I see that there is the trade-in device promo</p> <p>14 credit, but I see not behind it from Ms. Acevedo's</p> <p>15 private phone. I see only trade-in device promo</p> <p>16 credit.</p> <p>17 Q. I think I understand your testimony is that because</p> <p>18 you weren't the person in charge in 2018 you cannot</p> <p>19 deny or confirm whether or not this is</p> <p>20 Ms. Acevedo's telephone number or whether or not</p> <p>21 she traded in her phone for Teupen's plan, can you?</p> <p>22 A. No, I cannot, because --</p> <p>23 Q. Have you done anything since you filed the</p> <p>24 counterclaim against her to determine whether or</p> <p>25 not Ms. Acevedo was owed money back from Teupen for</p> <p style="text-align: right;">www.thompsonmi 1 1 s.com</p>	<p>Page 253</p> <p style="text-align: right;">MARTIN BORUTTA 253</p> <p>1 correct?</p> <p>2 A. Yeah.</p> <p>3 Q. Do you have any reason to dispute that the</p> <p>4 telephone number reflected -- let's see, wait --</p> <p>5 that that telephone number reflected -- let me go</p> <p>6 back to 58. The summary for Marjie Acevedo, 704-</p> <p>7 617-9493, do you see that right there?</p> <p>8 A. I see that right there, yes.</p> <p>9 Q. And at the time that Marjie was fired there were</p> <p>10 still payments owed on the phone, correct?</p> <p>11 A. I don't know.</p> <p>12 Q. Do you see that there is -- it says paid \$600.01.</p> <p>13 Do you see that? And there was a payment 19 of 24</p> <p>14 at \$33.33. Do you see that?</p> <p>15 A. I see that.</p> <p>16 Q. And 19 minus 24 is what?</p> <p>17 A. 19 minus 24 -- 19 minus 24 would be minus 5, so I</p> <p>18 don't know what you're asking.</p> <p>19 Q. And 5 times 33.33 is what?</p> <p>20 A. That would be around 170.</p> <p>21 Q. And you have nothing to dispute that Ms. Acevedo</p> <p>22 paid the remaining balance owed for the phone</p> <p>23 herself, do you?</p> <p>24 MR. KLASS: Object to the form.</p> <p>25 A. I don't know. I don't know whether she paid it.</p> <p style="text-align: right;">www.thompsonmi 1 1 s.com</p>

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<p>Sheet 65 Page 254</p> <p style="text-align: right;">MARTIN BORUTTA 254</p> <p>1 Q. (By Ms. Gessner) Tell me every other employee who</p> <p>2 you have sued for failure to turn in their cell</p> <p>3 phone.</p> <p>4 A. No other employee kept a company phone or kept it,</p> <p>5 just Ms. Geraghty, and she turned -- the same day</p> <p>6 she turned in her private phone.</p> <p>7 Q. But Ms. Acevedo had already turned in her private</p> <p>8 phone for a credit for the company as shown on the</p> <p>9 exhibit that you see before you as Exhibit 18?</p> <p>10 MR. KLASS: Object to the form.</p> <p>11 A. I don't -- I don't see that it was her private</p> <p>12 phone, so --</p> <p>13 Q. (By Ms. Gessner) Is it that you don't see it's her</p> <p>14 private phone because of the 201 phone number</p> <p>15 that's listed at the top? Is that what your</p> <p>16 problem is with the exhibit?</p> <p>17 MR. KLASS: Object to the form.</p> <p>18 A. No. It's just -- it's just that it can be every</p> <p>19 phone. If Teupen turns in 10 phones for that line</p> <p>20 you get a credit for the other line. So where is</p> <p>21 the receipt that Ms. Acevedo turned in her phone?</p> <p>22 That's the statement from Verizon. That is not any</p> <p>23 receipt that Ms. Acevedo turned in her private</p> <p>24 phone. And the credit was for the company, not for</p> <p>25 her private. That's the normal -- what we normally</p> <p style="text-align: right;">www.thompsonmi</p> <p style="text-align: right;">1</p> <p style="text-align: right;">1</p> <p style="text-align: right;">s.com</p>	<p>Page 256</p> <p style="text-align: right;">MARTIN BORUTTA 256</p> <p>1 A. I don't know whether we asked her for the receipt.</p> <p>2 Q. (By Ms. Gessner) I'm asking did you ask her for the</p> <p>3 receipt.</p> <p>4 A. I personally did not ask her for the receipt</p> <p>5 because I didn't talk to her personally when she</p> <p>6 took the phone.</p> <p>7 Q. Because you made no attempt to reach out to her</p> <p>8 despite her request, correct?</p> <p>9 MR. KLASS: Object to the form.</p> <p>10 A. Number 19, no, I did not call her.</p> <p>11 Q. (By Ms. Gessner) And also when I asked you to</p> <p>12 provide a detailed list of the things that you</p> <p>13 wanted from her, in no way did you write back and</p> <p>14 suggest that you -- in any way did you state that</p> <p>15 you needed a receipt for her cell phone that had</p> <p>16 been turned in, did you?</p> <p>17 MR. KLASS: Object to the form.</p> <p>18 A. I requested company property, as you know.</p> <p>19 Q. (By Ms. Gessner) Again, you chose not to give me</p> <p>20 the list that I'd asked you for so that we could</p> <p>21 make sure you had everything you wanted and needed;</p> <p>22 is that accurate?</p> <p>23 MR. KLASS: Object to the form.</p> <p>24 A. I didn't -- I did not give you a detailed list. I</p> <p>25 requested --</p> <p style="text-align: right;">www.thompsonmi</p> <p style="text-align: right;">1</p> <p style="text-align: right;">1</p> <p style="text-align: right;">s.com</p>
<p>Page 255</p> <p style="text-align: right;">MARTIN BORUTTA 255</p> <p>1 do. We take our phones, turn them in. We get new</p> <p>2 phones for that. So where is the receipt that</p> <p>3 Ms. Acevedo turned her phone? If you bring me that</p> <p>4 receipt it looks better, but I don't have a</p> <p>5 receipt. And that's my problem.</p> <p>6 Q. (By Ms. Gessner) So if you see the receipt that the</p> <p>7 phone was turned in, you agree that you filed a</p> <p>8 frivolous claim against Ms. Acevedo for her cell</p> <p>9 phone?</p> <p>10 MR. KLASS: Object to the form.</p> <p>11 A. No, I don't agree because we filed -- we filed a</p> <p>12 lawsuit because we do not have the receipt that</p> <p>13 Ms. Acevedo turned the phone in and took company</p> <p>14 property, so --</p> <p>15 Q. (By Ms. Gessner) You never asked Ms. Acevedo for</p> <p>16 the receipt before you filed the lawsuit, did you?</p> <p>17 A. Ms. Acevedo took the company phone without asking</p> <p>18 and she didn't provide --</p> <p>19 Q. You never asked Ms. Acevedo for a copy of the</p> <p>20 receipt before you filed the lawsuit, did you?</p> <p>21 A. Ms. Acevedo took company property. I don't need to</p> <p>22 ask for it.</p> <p>23 Q. Is that a no, Mr. Borutta? Is that a no, you never</p> <p>24 asked her for the receipt?</p> <p>25 MR. KLASS: Object to the form.</p> <p style="text-align: right;">www.thompsonmi</p> <p style="text-align: right;">1</p> <p style="text-align: right;">1</p> <p style="text-align: right;">s.com</p>	<p>Page 257</p> <p style="text-align: right;">MARTIN BORUTTA 257</p> <p>1 Q. (By Ms. Gessner) I'm going to show you another</p> <p>2 document that is -- I think you referred to it a</p> <p>3 minute ago and I want to make sure we're talking</p> <p>4 about the same thing. I'm going to mark this as</p> <p>5 Exhibit 19. Do you see a document on the screen,</p> <p>6 Mr. Borutta?</p> <p>7 A. I see a document on the screen.</p> <p>8 Q. Is this a document that you're referring --</p> <p>9 MS. GESSNER: Strike that.</p> <p>10 Q. (By Ms. Gessner) Is Sheri Geraghty the employee you</p> <p>11 were talking about a minute ago that had also kept</p> <p>12 her cell phone when she departed from Teupen?</p> <p>13 MR. KLASS: Object to the form.</p> <p>14 A. I don't know whether I can say also. I know from</p> <p>15 Sheri Geraghty that she brought and that was proof</p> <p>16 by Mr. Kesser. What I heard -- and I don't know</p> <p>17 it. I just heard it and -- yeah, that's what I</p> <p>18 know.</p> <p>19 Q. (By Ms. Gessner) Again, you didn't sue Ms. Geraghty</p> <p>20 when she left Teupen and took her phone with her,</p> <p>21 did you?</p> <p>22 A. She turned in the same day her personal phone. She</p> <p>23 didn't just kept her company phone, so it was a</p> <p>24 one-to-one exchange. Why should I sue her?</p> <p>25 Q. And Ms. Geraghty wasn't out on a medical approved</p> <p style="text-align: right;">www.thompsonmi</p> <p style="text-align: right;">1</p> <p style="text-align: right;">1</p> <p style="text-align: right;">s.com</p>

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<p>Sheet 66 Page 258</p> <p style="text-align: right;">MARTIN BORUTTA 258</p> <p>1 leave at the time that she chose to resign, was</p> <p>2 she?</p> <p>3 A. I don't know.</p> <p>4 Q. Other than Ms. Acevedo, have you terminated anyone</p> <p>5 else while they were on a medical leave?</p> <p>6 MR. KLASS: Object to the form.</p> <p>7 A. I don't know.</p> <p>8 Q. (By Ms. Gessner) Well, can you recall anyone else</p> <p>9 who was on medical leave that you chose to</p> <p>10 terminate while they were out on a leave?</p> <p>11 A. I don't know.</p> <p>12 Q. Is that a no?</p> <p>13 A. I don't know is the answer.</p> <p>14 Q. Let's take it -- have you terminated anyone in the</p> <p>15 last three months while they were out on medical</p> <p>16 leave?</p> <p>17 A. I don't know whether I terminated anybody the last</p> <p>18 three months. I don't remember.</p> <p>19 Q. Did you terminate anyone in 2021 while they were</p> <p>20 out on medical leave?</p> <p>21 A. I don't remember, sorry.</p> <p>22 Q. Would the list of names help you to recall whether</p> <p>23 or not you terminated someone while they were on</p> <p>24 medical leave?</p> <p>25 A. No. I don't -- I don't remember.</p> <p style="text-align: right;">www.thompsonmi</p> <p style="text-align: right;">1</p> <p style="text-align: right;">1</p> <p style="text-align: right;">s.com</p>	<p>Page 260</p> <p style="text-align: right;">MARTIN BORUTTA 260</p> <p>1 You just said that. I just asked you, did</p> <p>2 Mr. Kesser return his cell phone on the day that he</p> <p>3 was fired and you said I don't know. So do you</p> <p>4 remember who all returned their phone or do you</p> <p>5 not?</p> <p>6 MR. KLASS: Object to the form.</p> <p>7 A. You're asking two questions in one.</p> <p>8 Q. (By Ms. Gessner) No, I'm not, Mr. Borutta.</p> <p>9 A. You ask.</p> <p>10 Q. I'm going to ask you, tell me any employee that you</p> <p>11 are aware who turned in their cell phone after they</p> <p>12 were fired.</p> <p>13 MR. KLASS: Object to the form.</p> <p>14 A. Everybody did. Nobody kept cell phone, just</p> <p>15 Ms. Acevedo kept their cell phone.</p> <p>16 Q. (By Ms. Gessner) Ms. Geraghty kept her cell phone,</p> <p>17 didn't she?</p> <p>18 A. Ms. Geraghty delivered her cell phone the same day</p> <p>19 and took her company phone in exchange. That's not</p> <p>20 comparable.</p> <p>21 Q. And you are aware that Mr. Kesser kept his cell</p> <p>22 phone, too, aren't you?</p> <p>23 A. That is not correct. Mr. Kesser gave it back, but</p> <p>24 I don't know of the day of his termination or when</p> <p>25 he turned it back. He did not keep his company</p> <p style="text-align: right;">www.thompsonmi</p> <p style="text-align: right;">1</p> <p style="text-align: right;">1</p> <p style="text-align: right;">s.com</p>
<p>Page 259</p> <p style="text-align: right;">MARTIN BORUTTA 259</p> <p>1 Q. So are you aware of anyone else who had brought you</p> <p>2 a doctor's note indicating they needed to be out</p> <p>3 several days and you fired them while they were</p> <p>4 out?</p> <p>5 A. I don't know. I'm not aware. I don't know.</p> <p>6 Q. Are there any documents that would help refresh</p> <p>7 your recollection as to whether or not you fired</p> <p>8 anyone else other than Ms. Acevedo while she was</p> <p>9 out on a medical leave?</p> <p>10 A. I don't know.</p> <p>11 Q. Did Mr. Kesser return his cell phone on the day he</p> <p>12 was fired?</p> <p>13 A. I don't remember.</p> <p>14 Q. So do we have to ask Mr. Kesser whether or not he</p> <p>15 returned his cell phone on the day he was fired?</p> <p>16 MR. KLASS: Object to the form.</p> <p>17 A. I don't know if you have to ask Mr. Kesser. Have</p> <p>18 you got documents? I don't know it.</p> <p>19 Q. (By Ms. Gessner) Ms. Acevedo is the only person</p> <p>20 you've ever sued for not returning their cell</p> <p>21 phone, is that correct?</p> <p>22 A. The other people returned their cell phone, so why</p> <p>23 should I sue them?</p> <p>24 Q. Well, again, Mr. Borutta, you can't remember</p> <p>25 whether people returned their cell phone or not.</p> <p style="text-align: right;">www.thompsonmi</p> <p style="text-align: right;">1</p> <p style="text-align: right;">1</p> <p style="text-align: right;">s.com</p>	<p>Page 261</p> <p style="text-align: right;">MARTIN BORUTTA 261</p> <p>1 phone.</p> <p>2 Q. If individuals say that they also kept their phone</p> <p>3 and weren't sued, you don't have any reason to</p> <p>4 dispute someone else who says that, do you?</p> <p>5 MR. KLASS: Object to the form.</p> <p>6 A. Say that again, please.</p> <p>7 Q. (By Ms. Gessner) Yeah. If someone else testifies</p> <p>8 that they were able to keep their phone after they</p> <p>9 were fired from Teupen, you have no reason to</p> <p>10 dispute that, do you?</p> <p>11 MR. KLASS: Object to the form.</p> <p>12 A. First of all, I don't know what happened before</p> <p>13 2019, so it depends what you're referring to or</p> <p>14 which time you're referring to. That's -- I cannot</p> <p>15 just give you an answer because it's way too broad.</p> <p>16 Q. (By Ms. Gessner) So the company cell phones that</p> <p>17 are -- the company cell phones that are paid for by</p> <p>18 Teupen, they are eligible for personal use, aren't</p> <p>19 they?</p> <p>20 MR. KLASS: Object to the form.</p> <p>21 A. They are not normally eligible for private use.</p> <p>22 That was during the time of Mr. Kesser maybe, but</p> <p>23 not during my time.</p> <p>24 Q. (By Ms. Gessner) So is it your testimony that not a</p> <p>25 single cell phone issued or paid for by Teupen can</p> <p style="text-align: right;">www.thompsonmi</p> <p style="text-align: right;">1</p> <p style="text-align: right;">1</p> <p style="text-align: right;">s.com</p>

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<p>Sheet 67 Page 262</p> <p style="text-align: right;">MARTIN BORUTTA 262</p> <p>1 be used for a single personal call?</p> <p>2 A. The people get the company phone and they get their</p> <p>3 private phone -- phone additional, so the company</p> <p>4 phone is for work and the private phone is their</p> <p>5 private phone.</p> <p>6 Q. (By Ms. Gessner) You expect your employees to have</p> <p>7 two different cell phones, is that correct?</p> <p>8 MR. KLASS: Object to the form.</p> <p>9 A. That's too broad. I cannot answer the question</p> <p>10 because there are employees that have a company</p> <p>11 phone and employees that don't have one, so --</p> <p>12 Q. (By Ms. Gessner) Employees who have company phones,</p> <p>13 do you expect them to also have a personal phone if</p> <p>14 they intend to make personal calls using a cell</p> <p>15 phone?</p> <p>16 A. That is not my problem. I don't expect them</p> <p>17 anything. They just cannot use the company phone</p> <p>18 for private use, so what they do privately is not</p> <p>19 my problem and I don't expect anything.</p> <p>20 Q. I'm going to show you another document.</p> <p>21 Mr. Borutta, I'm showing you your responses to</p> <p>22 plaintiff's second set of interrogatories. Do you</p> <p>23 recognize this document?</p> <p>24 A. I think I've seen that.</p> <p>25 Q. It was served to us on October 8, 2020. Do you see</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>	<p>Page 264</p> <p style="text-align: right;">MARTIN BORUTTA 264</p> <p>1 MR. KLASS: At this point I'm going</p> <p>2 to object and instruct the witness not to</p> <p>3 answer based on attorney-client privilege</p> <p>4 and attorney work product.</p> <p>5 MS. GESSNER: Absolutely not.</p> <p>6 Q. (By Ms. Gessner) You verified these</p> <p>7 interrogatories, didn't you, Mr. Borutta?</p> <p>8 MR. KLASS: So, Mr. Borutta --</p> <p>9 excuse me.</p> <p>10 MS. GESSNER: Wait, wait, wait.</p> <p>11 Q. (By Ms. Gessner) These are your responses to the</p> <p>12 interrogatories, are they not, Mr. Borutta?</p> <p>13 A. Give me one minute to read the answer and ask me</p> <p>14 again.</p> <p>15 MR. KLASS: Mr. Borutta can answer</p> <p>16 what he answered in his interrogatories,</p> <p>17 but this answer was made subject to</p> <p>18 objection, and whether other information</p> <p>19 was withheld or considered subject to</p> <p>20 objection is attorney work product and</p> <p>21 attorney-client privileged communications</p> <p>22 and he cannot answer those questions.</p> <p>23 But he is free to answer any questions</p> <p>24 about what his answers actually were.</p> <p>25 MS. GESSNER: Well, I disagree with</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>
<p>Page 263</p> <p style="text-align: right;">MARTIN BORUTTA 263</p> <p>1 that date?</p> <p>2 A. Yes, I see that date.</p> <p>3 Q. Did you sign a verification page for this second</p> <p>4 set of interrogatories?</p> <p>5 A. I think I did.</p> <p>6 Q. I'm going to refer you to the question about cell</p> <p>7 phones. Just a second. Here it says, "Identify</p> <p>8 and describe each and every time any employee of</p> <p>9 Teupen used their personal cell phone to secure an</p> <p>10 upgraded device under the company's cellular plan</p> <p>11 from January 1, 2017, to January 3, and include the</p> <p>12 name of the employee, the employee's race, whether</p> <p>13 the employee was later separated from employment,</p> <p>14 and whether the employee returned the company cell</p> <p>15 phone upon separation." Do you see that?</p> <p>16 A. I see that.</p> <p>17 Q. And the response was, "Subject to and with no</p> <p>18 intention of waiving the objection as understood by</p> <p>19 defendant, it is defendant's understanding that</p> <p>20 plaintiff may have turned in her personal cell</p> <p>21 phone to Verizon when she received her company-paid</p> <p>22 and -owned iPhone." Why didn't you list Sheri</p> <p>23 Geraghty? Because you were well aware that</p> <p>24 Ms. Geraghty had kept her personal phone. Why</p> <p>25 isn't she listed in response to question number 18?</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>	<p>Page 265</p> <p style="text-align: right;">MARTIN BORUTTA 265</p> <p>1 your objection, Mr. Klass. It's wholly</p> <p>2 inappropriate. It isn't improper. I</p> <p>3 haven't asked this witness anything you</p> <p>4 told him. I haven't asked him anything</p> <p>5 that he told you. I'm asking about the</p> <p>6 answer that is written on the document</p> <p>7 that is in front of him and the</p> <p>8 information he's already testified about</p> <p>9 today that was excluded. So again, your</p> <p>10 objection, your nonstop objections are</p> <p>11 wholly inappropriate.</p> <p>12 Q. (By Ms. Gessner) So, Mr. Borutta, Ms. Geraghty is</p> <p>13 not listed in response to question number 18 on</p> <p>14 Exhibit 20, is she?</p> <p>15 A. She is not listed.</p> <p>16 Q. Are there any other employees who used a personal</p> <p>17 phone for Teupen's benefit or used a personal phone</p> <p>18 to upgrade other than Ms. Acevedo and Ms. Geraghty?</p> <p>19 A. I don't know.</p> <p>20 Q. Ms. Geraghty was able to keep the phone and pay for</p> <p>21 the line on her own, wasn't she?</p> <p>22 MR. KLASS: Object to the form.</p> <p>23 A. I don't know.</p> <p>24 Q. (By Ms. Gessner) And are you aware that</p> <p>25 Ms. Geraghty had told Ms. Acevedo that that was an</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>

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<p>Sheet 68 Page 266</p> <p style="text-align: right;">MARTIN BORUTTA 266</p> <p>1 option when employees leave, is that they can pay</p> <p>2 for and transfer the line over when they leave so</p> <p>3 that they keep their cell phone number, their</p> <p>4 personal number and have a phone available to them?</p> <p>5 MR. KLASS: Object to the form.</p> <p>6 A. I don't know what Ms. Geraghty said to Ms. Acevedo.</p> <p>7 Q. (By Ms. Gessner) That's right. I think you said a</p> <p>8 minute ago maybe under David Kesser that was</p> <p>9 allowed, but apparently under you it wasn't</p> <p>10 allowed, is that right?</p> <p>11 A. That's what I said.</p> <p>12 Q. Do you have any communication that you can show me</p> <p>13 that sent to all employees informing them of this</p> <p>14 change as it related to cell phones?</p> <p>15 A. I think there was -- they were informed when we</p> <p>16 changed over to AT&T.</p> <p>17 Q. How were they informed?</p> <p>18 A. In person when they get a new phone because we cut</p> <p>19 the phone lines down. That's why not every</p> <p>20 employee has a phone.</p> <p>21 Q. But it wasn't in writing anywhere, this new policy</p> <p>22 that you were implementing that everyone had to</p> <p>23 have a separate personal phone if they intended to</p> <p>24 use it for personal calls, is that correct?</p> <p>25 MR. KLASS: Object to the form.</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>	<p>Page 268</p> <p style="text-align: right;">MARTIN BORUTTA 268</p> <p>1 she could transfer the phone before you filed this</p> <p>2 lawsuit?</p> <p>3 MR. KLASS: Object to the form.</p> <p>4 A. I didn't speak with Ms. Geraghty.</p> <p>5 Q. (By Ms. Gessner) Did you speak with David Kesser</p> <p>6 about what he perhaps maybe had told Ms. Acevedo</p> <p>7 about --</p> <p>8 A. I don't -- I don't speak with Mr. Kesser.</p> <p>9 Q. Is that a no?</p> <p>10 A. It's a no. I don't speak with him. That means I</p> <p>11 don't speak with him.</p> <p>12 Q. Have you spoken with Andy Liebl about this lawsuit?</p> <p>13 A. Sure.</p> <p>14 Q. When was the last time you spoke with Mr. Liebl</p> <p>15 about the lawsuit?</p> <p>16 A. When he left the company in June '20, what's coming</p> <p>17 and what's going. Not long. Yeah, that was the</p> <p>18 last time I talked to him.</p> <p>19 Q. You haven't spoke to Mr. Liebl since?</p> <p>20 A. No. That was the last I talked to him, June '20.</p> <p>21 Q. Have you spoken with Ms. Geraghty at all about the</p> <p>22 lawsuit?</p> <p>23 A. As long as she was with the company, end of '20 I'm</p> <p>24 sure, yes.</p> <p>25 Q. Have you spoken with her since the lawsuit has been</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>
<p>Page 267</p> <p style="text-align: right;">MARTIN BORUTTA 267</p> <p>1 A. They have to use the company phone for company use</p> <p>2 and the rest is -- I don't know what people do</p> <p>3 privately and that's not my business. So if you</p> <p>4 get a company phone it was for the company and</p> <p>5 anything else, I don't know.</p> <p>6 Q. (By Ms. Gessner) But Ms. Geraghty was able to take</p> <p>7 her company phone, pay it off and use it for her</p> <p>8 personal use when she left, correct?</p> <p>9 MR. KLASS: Object to the form.</p> <p>10 A. Ms. Geraghty exchanged her phone the day she left.</p> <p>11 What she did before I don't know because that was</p> <p>12 agreed Mr. Kesser.</p> <p>13 Q. (By Ms. Gessner) Ms. Acevedo was never paid for the</p> <p>14 credit that Teupen had received as a result of her</p> <p>15 turning in her old phone, was she?</p> <p>16 MR. KLASS: Object to the form.</p> <p>17 A. I don't know whether she was paid or whether she</p> <p>18 turned her personal phone in. I don't know.</p> <p>19 Q. (By Ms. Gessner) And you never looked, did you,</p> <p>20 before filing the lawsuit against her?</p> <p>21 MR. KLASS: Object to the form.</p> <p>22 A. We didn't find her turning her phone in, so we</p> <p>23 didn't find any reason to.</p> <p>24 Q. (By Ms. Gessner) Did you speak with Ms. Geraghty</p> <p>25 about whether or not she had told Ms. Acevedo that</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>	<p>Page 269</p> <p style="text-align: right;">MARTIN BORUTTA 269</p> <p>1 filed?</p> <p>2 A. I have not spoken to Ms. Molyn since she left the</p> <p>3 company end of '20.</p> <p>4 Q. Do you have any sworn statements in your possession</p> <p>5 that were provided on behalf of Teupen in this</p> <p>6 case?</p> <p>7 A. I don't know.</p> <p>8 Q. Have you collected any sworn statements?</p> <p>9 A. I don't know.</p> <p>10 Q. Is that a maybe it happened, you just can't</p> <p>11 remember, or some other --</p> <p>12 A. I -- I myself did not collect sworn statements. I</p> <p>13 don't know whether Ms. Molyn did or Mr. Liebl. I</p> <p>14 don't know. I myself did not collect sworn</p> <p>15 statements.</p> <p>16 Q. Have you seen any sort of statements in this case?</p> <p>17 A. I don't remember.</p> <p>18 MS. GESSNER: Let's take five</p> <p>19 minutes. I might only have a few more</p> <p>20 questions and we'll be about done.</p> <p>21 MR. KLASS: Great. Thank you.</p> <p>22 (RECESS)</p> <p>23 Q. (By Ms. Gessner) I've got a couple more documents</p> <p>24 to show you. You had said that you hadn't seen a</p> <p>25 receipt or the credit card receipt where</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>

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<p>Sheet 69 Page 270</p> <p style="text-align: right;">MARTIN BORUTTA 270</p> <p>1 Ms. Acevedo had paid for and turned in her own</p> <p>2 personal cell phone, so I'm showing you a five-page</p> <p>3 document that has been turned over to your lawyers</p> <p>4 in discovery in this case that are Bates numbered</p> <p>5 Acevedo00032 through Acevedo00036. Have you taken</p> <p>6 the opportunity to read these documents,</p> <p>7 Mr. Borutta, before today? (Exhibit 21)</p> <p>8 A. No.</p> <p>9 Q. And so you have no idea whether or not these</p> <p>10 reflect -- even though we provided them in</p> <p>11 discovery and pointed as evidence that my client</p> <p>12 had purchased a phone, turned in her phone and had</p> <p>13 a credit, you haven't looked at them prior to day?</p> <p>14 A. I did not look at them.</p> <p>15 Q. You said that my client had not -- Ms. Acevedo had</p> <p>16 not turned in or had not provided any kind of</p> <p>17 receipt, but she had provided receipts. You just</p> <p>18 haven't looked at them, have you?</p> <p>19 MR. KLASS: Object to the form.</p> <p>20 A. That is not a receipt that the phone was turned in</p> <p>21 at Verizon, so I don't see any receipt.</p> <p>22 Q. (By Ms. Gessner) Okay. But you have --</p> <p>23 A. It's an AT&T bill, correct?</p> <p>24 Q. It is an AT&T --</p> <p>25 A. I see it. Right.</p> <p style="text-align: right;">www.thompsonmi</p> <p style="text-align: right;">1</p> <p style="text-align: right;">1</p> <p style="text-align: right;">s.com</p>	<p>Page 272</p> <p style="text-align: right;">MARTIN BORUTTA 272</p> <p>1 permission. She was accountant, not the CEO. She</p> <p>2 did not ask for permission whether she can transfer</p> <p>3 it. That's what happened.</p> <p>4 Q. And Ms. Geraghty was able to transfer and you don't</p> <p>5 have a clue what Ms. Geraghty had told Ms. Acevedo</p> <p>6 when she was her supervisor and you didn't tell her</p> <p>7 anything differently, did you?</p> <p>8 MR. KLASS: Object to the form.</p> <p>9 A. Ms. Geraghty --</p> <p>10 Q. (By Ms. Gessner) Since you need it simply, you</p> <p>11 weren't privy to any conversations that</p> <p>12 Ms. Geraghty had with Ms. Acevedo about how to</p> <p>13 handle the cell phone upon termination, correct?</p> <p>14 A. That doesn't matter.</p> <p>15 Q. Wait. You were not present for any conversations</p> <p>16 about what Ms. Geraghty said to Ms. Acevedo about</p> <p>17 how to handle the cell phone upon termination, were</p> <p>18 you?</p> <p>19 A. No, I were not present.</p> <p>20 Q. And you never gave Ms. Acevedo any instructions</p> <p>21 whatsoever about what to do with her cell phone</p> <p>22 when she is terminated or other people are</p> <p>23 terminated, did you?</p> <p>24 MR. KLASS: Object to the form.</p> <p>25 A. Ms. Acevedo took her cell phone before she was</p> <p style="text-align: right;">www.thompsonmi</p> <p style="text-align: right;">1</p> <p style="text-align: right;">1</p> <p style="text-align: right;">s.com</p>
<p>Page 271</p> <p style="text-align: right;">MARTIN BORUTTA 271</p> <p>1 Q. -- and it is dated September of 2018 when she</p> <p>2 received the first phone from Teupen, and it used</p> <p>3 to be AT&T before you switched it to Verizon,</p> <p>4 didn't it?</p> <p>5 A. You would have to --</p> <p>6 MR. KLASS: Object to the form.</p> <p>7 A. I switched it to AT&T in '19.</p> <p>8 Q. (By Ms. Gessner) In when?</p> <p>9 A. In 2019 we switched it to AT&T, December '19.</p> <p>10 Q. And so let's show you Exhibit 22. This is where</p> <p>11 Ms. Acevedo had paid for her own phone that she</p> <p>12 used to turn in for a credit with Teupen. You seem</p> <p>13 to be claiming that Ms. Acevedo had a company phone</p> <p>14 that she had never paid any money for and took it</p> <p>15 as opposed to having a phone and which that she had</p> <p>16 turned in and Teupen received the credit. So are</p> <p>17 you disputing that she owned the phone that Teupen</p> <p>18 got the credit for and never reimbursed her?</p> <p>19 MR. KLASS: Object to the form.</p> <p>20 A. I don't know what Ms. Acevedo paid for, so --</p> <p>21 Q. (By Ms. Gessner) And again, you've never asked or</p> <p>22 even followed up with whether or not Ms. Acevedo</p> <p>23 had permission to exchange the phone and transfer</p> <p>24 it to her personal line, have you?</p> <p>25 A. Ms. Acevedo never asked whether she has the</p> <p style="text-align: right;">www.thompsonmi</p> <p style="text-align: right;">1</p> <p style="text-align: right;">1</p> <p style="text-align: right;">s.com</p>	<p>Page 273</p> <p style="text-align: right;">MARTIN BORUTTA 273</p> <p>1 terminated. She transferred the line over the</p> <p>2 weekend and she didn't ask.</p> <p>3 Q. (By Ms. Gessner) So are you claiming that Teupen</p> <p>4 owned her phone number?</p> <p>5 MR. KLASS: Object to the form.</p> <p>6 A. It was paid by Teupen, or I think that's what we</p> <p>7 are claiming in the counterclaim, the phone -- the</p> <p>8 line and the phone, when I remember correct.</p> <p>9 Q. (By Ms. Gessner) And what's the amount of the value</p> <p>10 of the claim? Have you done any damages</p> <p>11 calculations for what you allege she caused harm to</p> <p>12 Teupen by transferring her phone to a separate line</p> <p>13 that she paid for?</p> <p>14 MR. KLASS: Object to the form.</p> <p>15 A. I did not yet calculate the damage.</p> <p>16 Q. (By Ms. Gessner) So prior to filing the lawsuit you</p> <p>17 have no idea how much the damages are?</p> <p>18 MR. KLASS: Object to the form.</p> <p>19 A. I have to do a calculation. I didn't do it.</p> <p>20 Q. (By Ms. Gessner) Isn't it true there are no damages</p> <p>21 associated with any of these claims?</p> <p>22 MR. KLASS: Object to the form.</p> <p>23 A. I don't know. I have to do a calculation.</p> <p>24 Q. (By Ms. Gessner) And so sitting here today almost a</p> <p>25 year after you filed the lawsuit you don't know how</p> <p style="text-align: right;">www.thompsonmi</p> <p style="text-align: right;">1</p> <p style="text-align: right;">1</p> <p style="text-align: right;">s.com</p>

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<p>Sheet 70 Page 274</p> <p style="text-align: right;">MARTIN BORUTTA 274</p> <p>1 much you're alleging that Ms. Acevedo owes Teupen</p> <p>2 as a result of your counterclaim, correct?</p> <p>3 MR. KLASS: Object to the form.</p> <p>4 A. I have to do a calculation on the damages.</p> <p>5 Q. (By Ms. Gessner) I'm asking you, have you ever done</p> <p>6 any calculations prior to today?</p> <p>7 MR. KLASS: Object to the form.</p> <p>8 A. I don't remember.</p> <p>9 Q. (By Ms. Gessner) You don't know whether you did any</p> <p>10 math about how much you're allegedly owed as result</p> <p>11 of these claims, Mr. Borutta?</p> <p>12 MR. KLASS: Object to the form.</p> <p>13 A. I don't remember.</p> <p>14 Q. (By Ms. Gessner) Okay. Mr. Borutta, I'm showing</p> <p>15 you what's being marked as Exhibit 23 to your</p> <p>16 deposition. Did you read all of the interrogatory</p> <p>17 responses before you signed the verification page</p> <p>18 that is marked as Exhibit 23 to your deposition?</p> <p>19 MR. KLASS: Object to the form.</p> <p>20 A. That's what I signed when I signed it. I read it</p> <p>21 to my knowledge as I understood them.</p> <p>22 Q. (By Ms. Gessner) But the sentence says, "I have</p> <p>23 read the foregoing interrogatories and the first</p> <p>24 supplemental answers to the first interrogatories</p> <p>25 and the answers to the second interrogatories."</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>	<p>Page 276</p> <p style="text-align: right;">MARTIN BORUTTA 276</p> <p>1 interrogatories that were produced in</p> <p>2 this case.</p> <p>3 A. Could you show me the document, please? And I can</p> <p>4 tell whether I signed it.</p> <p>5 Q. (By Ms. Gessner) Yeah. Hold on.</p> <p>6 MS. GESSNER: Yeah. I guess I have</p> <p>7 to take a break.</p> <p>8 MS. HAYNES: One moment, please.</p> <p>9 I'm uploading it now.</p> <p>10 MS. GESSNER: Okay. While she's</p> <p>11 uploading it, I have one in between here</p> <p>12 that we can take a look at.</p> <p>13 Q. (By Ms. Gessner) Mr. Borutta, why did you change</p> <p>14 the registered agent from Parker Poe to CT</p> <p>15 Corporation?</p> <p>16 A. I don't remember the reason.</p> <p>17 Q. Do you see the document in front of you?</p> <p>18 A. I see a document in front of me.</p> <p>19 Q. And it's being marked as Exhibit 25. You don't</p> <p>20 know why you did it?</p> <p>21 A. I don't remember why I did it.</p> <p>22 Q. Is this your signature on October 27, 2020?</p> <p>23 A. That is my signature.</p> <p>24 Q. Did you prepare this document?</p> <p>25 A. No, I don't think I prepared it. I don't remember.</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>
<p>Page 275</p> <p style="text-align: right;">MARTIN BORUTTA 275</p> <p>1 The answers are true according to the best of your</p> <p>2 knowledge, information and belief. So did you read</p> <p>3 them before you signed this?</p> <p>4 A. Yeah. That's what I signed, so yes, to the best of</p> <p>5 my knowledge and understanding and information I</p> <p>6 had that time. That's what I signed for.</p> <p>7 Q. Okay. I'm looking for one more thing. Did you</p> <p>8 sign the verification page for the second</p> <p>9 supplemental responses that you just produced</p> <p>10 pursuant to the court's order?</p> <p>11 MR. KLASS: Object to the form. For</p> <p>12 the record, what you just showed him was</p> <p>13 related to the most recent responses.</p> <p>14 MS. GESSNER: Well, I'm looking for</p> <p>15 the first set.</p> <p>16 Q. (By Ms. Gessner) Did you sign a verification before</p> <p>17 this, Mr. --</p> <p>18 MS. GESSNER: Nicole, if you're on</p> <p>19 here, we have to separate -- we have the</p> <p>20 same set twice.</p> <p>21 MR. KLASS: Do you want to take a</p> <p>22 break while you find it?</p> <p>23 MS. GESSNER: No, I do not. I want</p> <p>24 to ask him does he recall signing the</p> <p>25 verification page from the first set of</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>	<p>Page 277</p> <p style="text-align: right;">MARTIN BORUTTA 277</p> <p>1 That was -- yeah, that was October last year. No,</p> <p>2 I don't remember.</p> <p>3 Q. Let me see if we have it yet. Are there any</p> <p>4 responses to your questions today that you'd like</p> <p>5 to modify?</p> <p>6 A. What do you mean by that? Can you explain that to</p> <p>7 me, please?</p> <p>8 Q. Yeah. Are there any changes that you'd like to</p> <p>9 make to any of the responses that you've given me</p> <p>10 to my questions today?</p> <p>11 A. No.</p> <p>12 Q. And have you understood all of my questions all day</p> <p>13 long?</p> <p>14 A. All the questions I answered with yes or no or I</p> <p>15 don't know I understood and I told you if I didn't</p> <p>16 understand them, so you repeated them or changed</p> <p>17 them. Yes.</p> <p>18 MS. GESSNER: Nicole, is it up?</p> <p>19 MS. HAYNES: Yes. It's the document</p> <p>20 dated June 4, 2021.</p> <p>21 MS. GESSNER: Thank you.</p> <p>22 Q. (By Ms. Gessner) Mr. Borutta, is this your</p> <p>23 signature on this document that we're marking as</p> <p>24 Exhibit 24?</p> <p>25 A. Yeah. That looks like my signature.</p> <p style="text-align: center;">www.thompsonmi</p> <p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">s.com</p>

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MARTIN BORUTTA

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1 Q. And did you review all of the interrogatory
2 responses before you signed this document?
3 A. When I signed the document, then I reviewed it of
4 my best knowledge and what I understood.
5 Q. And again, one last time, Ms. Acevedo is the only
6 employee who you have sued after she filed an EEOC
7 charge or lawsuit against Teupen, is that correct?
8 MR. KLASS: Object.
9 A. I don't know because I don't know if there was
10 another EEOC charge. I don't know.
11 Q. (By Ms. Gessner) You don't know if any employee --
12 A. No.
13 Q. -- filed EEOC charges?
14 A. I don't know.
15 Q. Have any other employees filed EEOC charges since
16 you became the CEO of Teupen North America?
17 A. No.
18 MS. GESSNER: Well, we're going to
19 hold this deposition open. We're still
20 missing a ton of outstanding documents
21 that have not have produced in this case
22 including the forensic data that we've
23 asked for, and so we'll conclude it for
24 now.
25 MR. KLASS: Defendant notes their
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S I G N A T U R E P A G E

IN RE: MARJORIE ACEVEDO v. TEUPEN NORTH
AMERICA, INC.

DEPOSITION OF: MARTIN BORUTTA

TAKEN: October 15, 2021

I have read the foregoing pages, 1 through 279, and find that they contain a correct transcription of the answers made by me to the questions therein recorded, with the exception of corrections as listed on a separate sheet of paper and incorporated into this record.

MARTIN BORUTTA DATE

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MARTIN BORUTTA

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1 objection to holding open the
2 deposition, but he will read the
3 transcript.
4 (WHEREUPON, the taking of the
5 deposition was concluded at 5:32 p.m.)

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E R R A T A S H E E T

OF

MARTIN BORUTTA

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NORTH CAROLINA

MECKLENBURG COUNTY

C E R T I F I C A T E

I, Michelle S. Thompson, do hereby certify that the deposition of MARTIN BORUTTA was recorded by me and transcribed under my supervision and direction; and the foregoing 281 pages constitute a true and accurate transcript of the proceeding.

I further certify that the parties were present via videoconference as stated on the appearance page.

I further certify that I am neither counsel for, related to, nor employed by any of the parties to this action in which the proceeding was heard; and further, that I am not a relative or employee of any attorney or counsel employed by the parties thereto, and am not financially interested in the outcome of the action.

This the 1st day of NOVEMBER 2021.

MICHELLE S. THOMPSON, CVR-M
Notary Public
#19952490166

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